

DIRECTIONAL GUIDE TO SERVICE TAX AUDIT



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

Service tax was first introduced in 1994 following acceptance of recommendations of Dr Raja Chelliah Committee on Tax Reforms. Dr. Manmohan Singh, the then Union Finance Minister, in his Budget speech (year 1994-95) mentioned *“There is no sound reason for exempting services from taxation, when goods are taxed and many countries treat goods and services alike for tax purposes. The Tax Reforms Committee has also recommended imposition of tax on services as a measure for broadening the base of indirect taxes. I, therefore, propose to make a modest effort in this direction by imposing a tax on services of telephones, non-life insurance and stock brokers.”*

Successive finance ministers widened the service tax net with the result that more than hundred services are now covered in the service tax net. It is expected, in time, all activities unless taxed as goods or specifically exempted would be covered within the purview of service tax. Revenue from service tax has also increased steadily over the years.

Service tax law is a complex subject with several amendments over the years with significant thrust on specification of categories of services, evolving procedures and regulations which are modified through notifications and circulars. These frequent changes do make it difficult for the assesseees to keep pace with the changing requirements of the law. Service tax law is administered on self-assessment basis and therefore, service tax audit assumes significance. More and more businesses are opting for service tax audits by Chartered Accountants though there is no specific provision under the service tax law for such audit.

No significant material providing guidance on the manner of conducting audit and how each specific area of significance is to be verified is currently available. I am, therefore, very pleased to note that Indirect Taxes Committee has taken this initiative to prepare this publication titled “Directional Guide to Service Tax Audit” which would fill this gap and assist members in taking up audits in this fast expanding area of service taxation.

I congratulate the Indirect Taxes Committee for this splendid work and in particular, CA. Bhavna Doshi, Chairperson, Indirect Taxes Committee and the Committee members for successfully completing the task.

I am sure that the members would find this Guide immensely useful in enhancing their knowledge for effectively discharging their responsibilities in this area of practice.

Date: 9th February, 2011
Place : New Delhi.

CA. Amarjit Chopra
President, ICAI

Preface

Tax departments are now depending more and more on self assessment by tax payers and detailed scrutiny, audit, in select cases. Criteria for selection of cases for audit are determined on the basis of risk parameters identified by the tax department. Commonly used criteria are turnover or tax amount. Currently, for service tax, department takes up cases where annual service tax payment (including cash and CENVAT) is Rs.3 crores or more in the preceding financial year. These cases are generally, taken up for audit on annual basis and rest are taken up for audit periodically.

The departmental audit is very detailed and covers almost each and every aspect relating to substantive law and procedure. Such audits may come up every year or may not come up for few years. However, when they come up and if there are inconsistencies in compliance, consequences could be severe. Further, the complexities of service tax law which has developed over a period of time and is still in developmental phase and the fact that there are significant amendments from time to time, makes businesses nervous as to whether there is proper compliance or not. More and more businesses are, therefore, opting for voluntary, independent audit by chartered accountants to get comfort that there is substantive compliance with law and if there are any deficiencies, they are noticed in time and corrective action is taken in time. Such audits could cover entire gamut of activities of the auditee or could be selective.

This Guide provides directional guidance to the chartered accountants for conduct of service tax audit. Such audits by chartered accountants are not mandated by law and the scope is as per discussion with the management. Chartered accountants conduct such management audits as per Internal Auditing

Standards, Assurance Standards and other related pronouncements of the Institute of Chartered Accountants of India.

This Guide is divided into six segments covering aspects like indicative steps to be followed in preparation for audit, indicative check points for conduct of audit, indicative items to be included in the audit report. The Guide, in appendices, also provides list of presently taxable services, indicative format of preliminary information list.

The basic draft of this Guide was prepared by CA Deepak Jain and has been further worked on by CA Leena Doshi and CA Arvind Chawla. I would like to place my sincere appreciation for the contribution made by them. I am thankful to CA. Amarjit Chopra, President and CA. G. Ramaswamy, Vice-President, ICAI for their support and encouragement to the initiatives of the Indirect Taxes Committee and to all the members of the Indirect Taxes Committee for their support and suggestions in this initiative. A very special mention of CA Smita Mishra, Secretary to the Committee, for very ably assisting in this publication by providing inputs on technical content as also for providing editorial assistance.

I trust this Guide will facilitate members in service tax audit assignments and will be of immense use as a background material for conduct of Seminars/Workshops on the subject. I look forward to feed back from members for further improvements in this Guide.

Date: 9th February, 2011
Place: New Delhi

CA. Bhavna Doshi
Chairperson
Indirect Taxes Committee

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CHAPTER 1

SERVICE TAX-BACKGROUND

1.1 Taxation of services has gained significance with increasing share of services in country's GDP. Share of services in GDP has grown from 50.5 % in 2000-01 to 60 % in 2009-10. Taxation of services leads to more equitable distribution of tax burden between goods and services and is a step in the direction of next stage of reforms of indirect taxation: Goods and Services Tax.

(Source: CCIL Economic Research, Central Statistical Organisation and Statistical Outline of India 2006-07, CSO, RBI, IBEF)

1.2 Levy of service tax was introduced in the year 1994 on 3 services, Insurance, Stock Brokers and Telephone. Every year, with the enactment of the Finance Bill, number of taxable services has been increasing, which now stands at more than 100. A list of currently taxable services (after enactment of Finance Bill, 2010) is given as Appendix A to this Guide.

1.3 With the expansion of taxable service categories, the tax base has also increased significantly. The number of assesseees registered under service tax have grown from 3,943 in 1994 to over 13 lakhs in 2009-10.

(Source: www.servicetax.gov.in)

1.4 Revenue from service tax too is growing at a fast pace. Service tax revenue in the year 1994-95 was Rs. 410 Crores and was Rs 58,336.crores for the financial year 2009-10. The increase in revenue over the years as tabulated below indicates the growing significance of the service tax in the government's revenue sources.

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Year	Service tax
1994-95	410
1999-00	2,072
2004-05	14,196
2005-06	23,053
2006-07	37,482
2007-08	51,133
2008-09	60,702
2009-10	58, 336

(Source: www.servicetax.gov.in)

1.5 Rate of service tax was 5% at the time of its introduction in 1994 which was increased to 8% (w.e.f. 14 May 2003), 10% (w.e.f. 10 September 2004) and 12% (w.e.f. 18 April 2006). It was then reduced to 10% with effect from 24 February 2009 as part of stimulus package and continues to be 10 % now.

1.6 Initially, at the time of introduction of service tax, there was no input tax credit mechanism and thus, tax paid on services used for providing output services was not available as input tax credit. This led to cascading effect. Input tax (adopting value added tax principle) mechanism was introduced in calibrated manner from 16 August 2002 when input tax credit was made available within same category of service i.e. service tax paid on service of say, port service was available as input tax credit against port service only. This mechanism was then extended to inter-services with effect from 14 May 2003 e.g port service provider was made eligible to avail credit of service tax paid on services received from a chartered accountant. Subsequently, this mechanism as extended across goods and services and CENVAT (excise duty) paid by a service provider on goods used for providing taxable services was made available as input tax credit to the service provider and vice versa with effect from 10th September 2004 e.g. port service provider could use credit for excise duty paid on goods purchased for providing port service and a manufacturer of chemicals could use credit of service tax paid on use of port services.

Service Tax-Background

1.7 Service tax law is contained in Finance Act, 1994 and various Rules viz., Service Tax Rules, 1994, CENVAT Credit Rules 2004, Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, Export of Service Rules, 2005, Service Tax (Determination of Value) Rules, 2006, Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, Service Tax (Advance Rulings) Rules 2003, Service Tax (Provisional Attachment of Property) Rules, 2008, etc. The law has been undergoing substantial changes with the Government gaining experience in taxation of services which is a very complex subject.

1.8 With the widening coverage of service tax, changing law and Department's reliance on tax payers to make their own assessment (self assessment), external verification of positions adopted for service tax and procedures for compliance by businesses is gaining significance. The tax department, unlike earlier days, does not take up each return for assessment. That burden is now on the tax payers who have to certify that they have carried out self – assessment. The tax department now takes up few cases for scrutiny/audit based on identified risk parameters. Thus, every return is not taken up for verification / audit on quarter / half yearly or even annual basis. At the same time, when it is taken up for verification / in depth audit, larger period is covered.

1.9 Inadvertant errors or mistakes are often found leading to significant tax demands with interest. Such demands, in case of genuine, honest mistake, would cover period of one year. However, as is usually noticed, the tax department alleges misdeclaration and suppression of facts with an intent to evade payment of tax and seeks to invoke extended period of limitation. In that case, the demand can be raised for the past 5 years and penalty could be twice the amount of tax evaded for such suppression besides levy of interest. The service tax demands are usually quite high as compared to demands under income tax, since the service tax is on the amount of gross earnings and not with reference to net profit. Indirect taxes are ordinarily recovered from the customers but, if incorrect **position** is taken, the burden often falls on the service provider as the principal liability to pay tax is on the service

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provider irrespective of the fact whether the service provider has collected tax from the client or not.

1.10 Considering this high risk of non compliance or adopting positions leading to non payment of taxes or even incorrect payment of taxes which could, besides tax consequences also impact competitiveness, more and more service providers are opting for independent audit by chartered accountants. Such audits include identification of revenue streams liable/not liable to tax, correctness of their classification by the auditee, accuracy in determining valuation, tax computation, compliance with procedures and so on.

1.11 This Guide provides directional guidance to the chartered accountants for conduct of service tax audit, when called upon by a client though not prescribed or mandated by law. This Guide is to be read with the relevant provisions of law – the Act and the Rules, Notifications, Circulars and case laws. The service tax audit is a management audit and is to be conducted in accordance with the Internal Audit Standards and other related pronouncements of the Institute of Chartered Accountants of India. This Guide provides direction to conduct the audit. The chartered accountants when called upon to conduct the audit will have to make detailed analysis and verification of documents, etc. in accordance with the law and the normally accepted auditing practices in the context of the audit.

1.12 This Guide is divided into six segments:

Segment	Aspect covered
1. Audit scope and terms of engagement	Indicative steps/ procedures to be followed before taking up preparation for audit
2. Preparation for audit, audit program and pre-audit checks	Indicative steps/ procedures before commencing or undertaking an audit
3. Conduct of the audit and check points	Indicative check-points for conduct of audit based on the scope

Service Tax-Background

Segment	Aspect covered
4. Audit form and post-audit report	The draft format of the audit report summarizing the observations and suggestions of the auditor
5. Responsibilities as an auditor	Role and responsibilities of an auditor in conduct of the audit
6. Appendices	List of taxable services, indicative format of preliminary information list and the indicative format of audit report depending on the scope of the audit

CHAPTER 2

AUDIT SCOPE AND TERMS OF ENGAGEMENT

2.1 Audit under service tax, as mentioned earlier, is an audit sought for by management and is currently not prescribed under any law. Therefore, it is essential for the auditor to agree specific scope of work with the auditee as part of terms of engagement.

2.2 The terms of engagement agreed with the auditee would ordinarily cover the scope of work, time frame, manpower resources that the auditor would deploy for the engagement, limitation to scope of work, if any, support expected from the auditee, fee estimate, reimbursement of expenses, if any, that the auditor would incur for the engagement. For instance, if the auditor is required to travel for the engagement, it is a good practice to mention it in the engagement letter. Engagement letter brings about clarity as to the expectations from each of the parties; the auditor and his team and the auditee and its team.

2.3 One of the key aspects of the engagement letter, especially, in case of management or internal audits like service tax audit, is the scope of work and it would be desirable to spell it out in somewhat detail.

2.4 Service tax audit scope could be:

- Broad-based/ high-level or detailed/extensive
- Procedural compliance or substantive compliance

Audit Scope and Terms of Engagement

- General or specific - it could cover all the activities of the auditee or could be limited in scope and cover a specific area, function, unit and like.

2.5 In a broad-based or high-level audit, the auditor conducts the audit based on materiality and substantive audit checks, and verifies, whether at a high level, there are any gross non-compliances or exposures that may be regarded as material. The scope of an audit, when undertaken on a broad-based or high-level basis could cover following:

- Whether the revenue stream, which ought to be subjected to service tax has been offered as such;
- Whether the positions taken with respect to revenue streams that are not offered or subjected to service tax including in respect of services exported, are defensible in law;
- Whether foreign exchange payments, which ought to be subjected to service tax have been considered in determining tax liability;
- Whether the classification adopted for the service, appears to be appropriate in law;
- Whether the abatement or deductions ordinarily claimed from the value of taxable services, is available under law;
- Whether, materially, the items or categories in respect of which, cenvat credit has been taken, is available under law;
- Whether discharge of service tax on associated enterprise transactions, appears to be in accordance with the law;
- Whether concession or exemption availed under any

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notification, with respect to rate, value or the nature of services, is appropriate and available under law;

- Whether the turnover declared in the returns filed by the auditee for service tax purposes is reconciled with the turnover in the financial statements of the auditee and also with other statutory returns filed by the auditee.

2.6 In case of detailed or extensive audit, the level of checks undertaken by the auditor is more extensive and, besides what is stated above, includes detailed verification of records, correspondence and returns and other documents filed with the Department.

2.7 The essential difference in the scope of the audit between a detailed audit and a broad based audit would be that in case of a detailed audit all transactions whether material or not, are reviewed and corroborated with documents. Further, in case of a broad-based audit, the emphasis is only to verify substantive compliance in law, while the emphasis in the case of a detailed audit is also to verify compliance with procedural requirements. To illustrate, in case of a liability to service tax under reverse charge, substantive check would mean to check whether the transaction is subject to service tax or not, while detailed audit would also include procedural checks like whether payment of tax due is made in accordance with the law. Similarly, to check whether an assessee is liable to seek registration or not, would be a substantive check and in case it is considered that he is liable to seek registration, whether registration has been obtained in accordance with the law or not, would be a procedural compliance check. Accordingly, in case of detailed audit, the checks become more extensive including validation of computational accuracy, timeliness of payments, documentation etc.

2.8 The scope of audit could also relate to specific areas or specific functions or specific units of the auditee. For example, an auditee may require verification of Cenvat Credit. This may again be broad based which could involve verifying the eligibility and broad based checks or could be a detailed one covering verification

Audit Scope and Terms of Engagement

of documents and records maintained for the purpose including procedures. An auditee may engage the auditor to audit all its service streams or only particular service streams. In some cases, it could cover a particular location e.g. if the auditee has head office at Mumbai and operating units in Goa and Delhi, the auditee may engage the auditor to conduct audit of only Delhi unit. In each of the cases, audit could be broad based or in depth.

CHAPTER 3

PREPARING FOR AUDIT, AUDIT PROGRAM AND PRE-AUDIT CHECKS

3.1 First step in preparation for conduct of audit is to draw up the audit program. While preparing the audit program, the auditor should keep in mind the scope and the time frame agreed with the auditee. For this purpose, it is useful to conduct a pre-audit interview with the auditee. The objective of the pre-audit interview is to gain broad knowledge of the business transactions and a grasp of the spread of auditee's activities. The auditee's representative should be one who could provide the auditor with an unbiased but general and accurate information and knowledge about the relevant transactions undertaken by the auditee. It is suggested that the pre-audit interview be conducted in person by a senior member of the auditor's team as this also becomes a platform for discussing the manner in which the auditor would conduct the audit and convenient time for undertaking the audit as also the concerns that the auditee may have which the auditor need to be aware of.

3.2 The auditor, based on this information, then needs to draw up an audit plan. Audit planning should be based on the scope of the audit and on the knowledge of the entity's business. Proper and adequate audit plan ensures that appropriate attention can be devoted to identified or significant areas and identification of potential issues or concerns. This, in turn, enables focus on such identified areas during the conduct of audit and use of auditing skills to ensure appropriate utilization of time and skill to complete the audit in terms of agreed scope. Audit planning should also

Preparing for Audit, Audit Program and Pre-Audit Checks

take into consideration applicable pronouncements of the Institute of Chartered Accountants of India.

3.3 An audit plan should also determine documentation that would be necessary for performing the audit. The adequacy of documentation provides the basic evidence as to the manner of conduct of audit. Therefore, the form and content of the audit documentation, their retention and the methodology for their identification, should be based on the standard auditing practices. The strength of audit documentation should be constantly evaluated during the course of the audit.

3.4 The audit plan should also decide the sample, which would be considered as appropriate for the conduct of the audit. Ordinarily, the auditee does not expect the auditor to verify 100 % transactions though, in some cases, that could be the scope of work. In case, where the scope agreed specifies that all the transactions during specified period would be audited, the question of sampling does not arise. However, where it is a broad based audit or where it is agreed, as part of scope of engagement, that the verification would be based on sample, auditor would need to determine the sample. Such sample is drawn up based on the discussion with the management of the auditee and, in absence thereof, the process adopted for drawing sample should be in accordance with the applicable pronouncements of the Institute of Chartered Accountants of India, including on matters connected with the design and evaluation of sample, the tolerable and expected error, the selection of sample and evaluation of their results, the analysis of errors in the sample, the projection of errors and reassessing sampling risk, wherever necessary and the application of analytical procedures for conduct of audit. The adequacy of audit sample should be constantly evaluated during the course of the audit.

3.5 Before commencing audit, the auditor should issue a pre-audit information request list to the auditee. The objective for issue of this document is to ensure that the auditee keeps or provides the information that is considered relevant for conduct of the audit. It would be a good idea to do internet search on the auditee to acquaint the audit team with the activities of the entity as also any

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other information that is available on the internet like press releases issued by the entity from time to time, any news item where the auditee is covered. This facilitates in drawing up the information request list. There is no standard format for making the information request and this needs to be designed keeping in view the knowledge of auditee's business, nature of processes, level and competency of staff handling specified areas, records maintained and other relevant factors. An indicative format of a simple information request document is given as Appendix B to this Guide, to provide indication as to the kind of information that may be considered relevant and necessary for conduct of audit.

3.6 A desk review of the information and documents provided by the auditee (refer to documents listed in Appendix B) is useful and should be carried out before commencing the audit work as it facilitates identification of areas where emphasis is required during audit process. Such desk review is a high level evaluation of the data including key ratios and is very similar in nature to analytical review before conduct of audit. A comparative analysis of information of other similarly placed businesses and available data in public domain is also very useful in preparing audit plan and the extent of verification required. Such information ought to be kept in the file too as part of audit documentation.

CHAPTER 4

CONDUCT OF THE AUDIT AND CHECK POINTS

4.1 Levy of service tax and classification

Service tax is leviable on taxable services specified in Section 65(105) of Finance Act, 1994. Therefore, to determine, as to whether any particular service is taxable or not, it would be essential to examine whether the service is covered under any of the categories of taxable services specified in Section 65(105). The services provided by the auditee, if taxable, would be classifiable in one of the sub-clauses specified in Section 65(105) and for this, the description specified in the sub-clause would be relevant.

For this purpose, the auditor would need to first list all the revenue streams of the auditee. These streams could be directly recorded under specific heads or could be recorded as part of some stream of revenue and not as a specific head of revenue. For example, service charges collected at the time of sale of equipment could be recorded as part of the sale itself. A quick review of the manner of billing would assist in identifying the manner of recording of transactions and booking of income under specific account head. Sometimes, the revenue could be recorded as deduction from the expense and a quick analysis of credits to various expense accounts would provide indication of booking of recoveries/revenue in a particular account head of expense.

Although, the rate of service tax is same for all categories of services, classification assumes significance from following perspectives:

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- Scheme of taxation in some cases is classification specific e.g. completion and finishing services are eligible for composition scheme under works contract category, whereas under construction category, there is no such composition scheme.
- Exemptions / exclusions in some cases are classification specific e.g. convention service does not include a meeting or assembly the principal purpose of which is to provide any type of amusement, entertainment or recreation, whereas the same may be covered as social function under mandap keeper services.
- Abatement for determination of effective rate of tax is also classification specific e.g. Notification No. 1/2006 provides abatement of specific percentage to certain specified categories listed therein.
- Rules for determining import of service as also export of service are classification specific and divided in three categories based on location of immovable property, place of performance of service and location of recipient of service.

The auditor should check whether the classification adopted by the assessee is appropriate in law and justifiable given the facts of the case. In case the classification appears to be inappropriate or where services chargeable to service tax are not offered to service tax, the auditor should identify the reasons/views of the auditee as to why the same is not offered for tax or the reasoning for adopting a particular classification. The reasons for the same could vary e.g. it could be due to error or misunderstanding of the provisions or it could be a conscious decision after analysis of the provisions and, could also be based on the legal opinion received on the subject or it could be due to non review/non revision of the classification after amendment in law or due to judgements in which a different position is upheld or could be due to change in the perception/view of the person handling the tax matters. Auditor should note the details – the nature of transactions, the reasons, the period involved and quantify the impact thereon and include this aspect appropriately in the Report.

Conduct of the Audit and Check Points

The checkpoints to be adopted by the auditor for verifying appropriateness as regards taxability and the classification adopted by the auditee are given below.

Ref.	Audit checkpoints	Yes / No
4.1.1	Is service tax chargeable on the services provided by the Auditee in terms of services specified in sub-clauses of Section 65(105)?	
4.1.2	Whether classification is determined according to description provided in Section 65(105) and whether it seems appropriate?	
4.1.3	Is the taxable service, <i>prima facie</i> classifiable under two or more sub-clauses of Section 65(105) ? If so, which are those?	
4.1.4	In case of multiple classification, is the classification providing more specific description preferred over the one providing more general ?	
4.1.5	In case of multiple classifications, when specific description test or the essential character test is not applicable, has the classification been based on the description which appears first in the said sub-clauses ?	
4.1.6	In case of composite classification, is the classification based on the essential character test ?	
4.1.7	Is the classification adopted by auditee based on any judgment and if yes whether the judgment reasonably applies to the auditee's position ? Is that decision still valid or is there any other judgement which has overruled the judgement on the basis of which auditee had adopted the classification? Is there any modification in the law subsequent to that judgement which could	

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Ref.	Audit checkpoints	Yes / No
	have bearing on the classification adopted by the auditee?	
4.1.8	Are there any circulars or instructions of the Department dealing with the issue and whether the position adopted by the auditee is in consonance or variance with positions explained/clarified in such circulars/instructions ? Are the circulars/instructions relied on currently valid ?	
4.1.9	Are there any judgements of Tribunal/High Court/Supreme Court on the subject with same or similar facts and what impact does it have on the position taken by the auditee ?	
4.1.10	Has the auditee received any inquiry letter or show cause notice or whether the matter is pending in adjudication or appeal for any of the prior periods and what implications it has on the position currently adopted by the auditee ?	
4.1.11	Has the same or similar matter raised in any audit query or objection and whether it is currently relevant and could have bearing on the position adopted by the auditee?	

Relevant references

Particulars	Reference
Description of taxable services	Section 65(105)
Basis for classification	Section 65A

4.2 Registration

Every person who is liable to pay service tax is required to obtain registration under service tax. Ordinarily, the liability to pay service

Conduct of the Audit and Check Points

tax is that of a service provider. However, in certain cases, the liability is shifted to the recipient of service which is ordinarily referred to as “reverse charge”. Such reverse charge applies to domestic transactions falling in few service categories e.g. insurance auxiliary service and for all international transactions where the provider of service does not have an office in India. In such cases, the recipient of service becomes liable to pay service tax and is required to comply with the procedural law.

Thus, any person who is liable to pay service tax, whether as provider of service or recipient of service, is required to seek registration. In case the auditee is providing more than one taxable service, the registration is required to be obtained for all such taxable services. In case an auditee has centralized accounting or billing system for services that are provided from more than one premise or office, the auditee is entitled to seek a centralized registration.

The auditor should check whether the information provided in application for registration is correct and complete based on the information that is available to it and whether it is appropriately reflected in the Registration Certificate issued by the Department. Further, the auditor should check whether subsequent changes in any information is provided to the Department and whether appropriate modifications are reflected in the Registration Certificate. In case of deficiencies, the auditor should ascertain the reasons and the period involved and bring it out suitably in its report.

Indicative checkpoints that can be adopted by the auditor for this purpose are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.2.1	Has the assessee obtained registration for every premise or office from where taxable services are provided?
4.2.2	In case of centralized registration of any premise or office, does the service provider have a system of centralized accounting or invoicing system in the said premise or office?

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Ref.	Audit checkpoints
4.2.3	In case of centralized registration, does the registration include list of all premises or offices from where the subject taxable services are being provided?
4.2.4	Has the assessee obtained registration for every taxable services provided and for every taxable service for which it is liable to pay tax as recipient of service?
4.2.5	Is the information submitted in the application for registration made in proper form and whether such information was found to be appropriate ?
4.2.6	In case, the Registration Certificate is not available, whether the application for registration was made within prescribed time of the auditee becoming liable to tax and whether the application was made to the proper officer?
4.2.7	Is the information available in the Registration Certificate current ? If not, check whether the change was intimated to jurisdictional office in proper form and within specified time from the date of change?
4.2.8	Has the registration been obtained for every submitted application and whether the original copy of the registration is available for verification and is verified?
4.2.9	In case, the auditee has not obtained centralised registration and distributes input tax credit, has registration been obtained as 'input service distributor' and whether the registration appears to be appropriate in law?
4.2.10	Are all payments for which overseas remittances are made and wherever applicable, TDS Certificates for tax withholding are obtained, as also those in respect of which details are contained in TDS returns, have been examined to assess whether there is tax liability and whether registration should have been obtained ?

Conduct of the Audit and Check Points

Relevant references

<i>Particulars</i>	<i>Reference</i>
Requirement for registration	Section 69
Conditions and procedure for registration	Rule 4 of Service Tax Rules, 1994
Application for registration	Form ST-1
Registration certificate	Form ST-2

Service Tax (Registration of Special Category of Persons) Rules, 2005, for registration as 'input service distributor' Notification No. 27/2005 – ST, dated 07-Jun-2006

4.3 Valuation

Service tax is chargeable on the value of taxable services provided or to be provided. Normally, the consideration for provision of services is received in money. However, service tax would become payable whether the consideration received is in money terms or in kind. In case the consideration is received in kind, the value is to be determined in terms of Service Tax (Determination of Value) Rules, 2006. In this regard, when the consideration is received in kind and the value can be determined, then the service tax is payable on such determined value. In case the value of the consideration in kind is not determinable, then the value is to be determined on the basis of value of similar service provided to any other person in the ordinary course of trade or by such other manner, which shall not be less than the cost of providing the said service. "Value" for this purpose is gross amount charged for providing service i.e. gross consideration for providing service.

Reimbursement of expenses is ordinarily, noticed to be an area of dispute as often, the taxpayers do not include it in determining value of taxable service whereas the department takes a view that such amounts are includible in determining taxable value of services. Auditor needs to examine this in light of the Valuation Rules which contain specific provisions for exclusion of amounts charged/collected towards reimbursements.

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The issue as to whether the goods/materials provided by the customer/client of the service provider is includible in determining value of service is also an issue where there could be differing views and auditor needs to ascertain the position adopted by the auditee in this regard and include the relevant aspects in the report.

The auditor should check whether the value adopted for determining service tax is in accordance with law and Rules made in this regard. For this purpose, he would also need to go through the terms relating to provision of service as may be contained in contracts / agreements, correspondence and like. Knowledge of industry and industry practices in this regard will be very useful in identifying valuation methodologies adopted by the auditee. Auditor should go through various amounts collected from customers whether the same are credited to specific accounts or credited to expense accounts to assess as to whether the value determined for payment of tax is in accordance with law.

In some cases, service provider may not charge service tax separately and the price charged may be inclusive of service tax. In that case, backward working is required to determine value of service tax. For example, if rate of service tax is 10% and bill amount is Rs. 100 inclusive of service tax, taxable value will be Rs. 91 (rounded off) and service tax amount will be Rs 9 (rounded off) determined on the basis of following formulae:

$$\text{Value} = 100 - \{100 \times 10/110\}$$

Deficiencies, if any, identified in determining taxable amount should be quantified with reasons and period during which such differences are noticed.

In case the valuation methodology appears to be inappropriate, the auditor should ascertain the reasons, the period involved and quantify the impact thereof. The inappropriateness in the valuation methodology should also be suitably brought out in his report. The checkpoints to be adopted by the auditor for verification of appropriateness of valuation adopted by the auditee are given below:

Conduct of the Audit and Check Points

Ref.	Audit checkpoints
4.3.1	In case the provision of service is for consideration in money, was service tax charged on the gross amount charged/collected?
4.3.2	In case the gross amount charged is inclusive of service tax, was deduction claimed for the value of service tax included in such value?
4.3.3	In case the consideration received by the service provider is not ascertainable for reasons including that the said consideration is wholly or partly in kind, then was the valuation methodology based on the prescribed rules and the value adopted found to be appropriate, considering the given facts?
4.3.4	In case of works contract, is the value determined in accordance with Rule 2A of the valuation rules?
4.3.5	Whether any amounts are separately recovered from customers? Are all charges and like collected from customers whether credited to specific accounts (if taxable) considered for determining taxable value?
4.3.6	In case the value of certain expenditure or costs are excluded from the value for the purpose of charging service tax, then does the transaction comply with the 'pure agent' conditions prescribed in Rule 5 of the Valuation Rules?
4.3.7	Whether any deductions or the abatement are claimed from the 'gross amount charged' or the value chargeable and whether they appear to be appropriate in law?
4.3.8	Is tax paid on any expenditure required to be incurred by the auditee, but incurred by its client/ customer and whether it is appropriate in law?
4.3.9	In case of deductions made for material sold during course of providing service, whether same is checked with Sales tax /VAT returns (if any)?

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Relevant references

<i>Particulars</i>	<i>Reference</i>
Valuation and meaning of the term 'gross amount charged'	Section 67
Service Tax (Determination of Value) Rules, 2006	Notification No. 12/2006-ST, dated 19-Apr-2006

4.4 Payment of service tax

Every person providing taxable service and every other person who is made responsible under Section 68(2) to pay service tax, is regarded as the person liable to pay service tax. Service tax by corporate entities is ordinarily required to be paid to the account of the exchequer by 5th of the next month and in case, the same is made electronically, then by 6th of the next month with the exception of the tax relating to the month of March. In case the assessee is an individual, proprietary firm or a partnership firm, then the liability to pay service tax is on quarterly basis i.e. by 5th or 6th of the month respectively, following the said quarter except for the tax relating to the quarter ending March. In case the liability pertains to the month of March or quarter ended March, then the due date to make the payment of service tax is the last date of the said month.

The liability to pay service tax in case of the provider of service, arises upon receipt of consideration in advance or otherwise except where the transactions relate to associated enterprises. If consideration is received partly, then the liability to pay service tax is proportionate to the amount received. Normally, the consideration for provision of services is received in money. However, service tax would become payable whether the consideration received is in money or in kind. In case the consideration is received in kind, the value is to be determined in terms of Service Tax (Determination of Value) Rules, 2006 as discussed earlier.

In case the transaction is with an associated enterprise, the liability to pay service tax arises on the date of debit or the credit entry in

Conduct of the Audit and Check Points

the books, by whatever name called, of the person liable to pay service tax. In this regard, the meaning of the term 'associated enterprise' has been drawn from the transfer pricing regulations under the Income Tax Act, 1961.

In case of the reverse charge i.e., where the recipient of the service is liable to pay tax, the liability to pay service tax arises at the time of making the payment and the amount is to be paid to the exchequer in the corresponding month or quarter, as the case may be.

Following are the indicative check points in this regard:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.4.1	What are the due dates for payment of service tax and whether the auditee is making payment electronically? Is electronic payment mandatory for the auditee?
4.4.2	Whether the assessee has deposited the dues on or before the due date specified in Rule 6?
4.4.3	In case of delays, has the interest been paid? Is the interest calculated at the applicable rates?
4.4.4	Whether the assessee has the proof for discharge of tax and whether the original copy of the payment document is verified?
4.4.5	Whether the assessee has deposited the dues in advance and in such cases, whether intimation was given to the jurisdictional officer and details of such payments are appropriately indicated in the return?
4.4.6	In case of payment of excess tax of more than Rs. 1,00,000 whether application for refund is filed for amount in excess of Rs. 1,00,000?
4.4.7	In case of transactions with an associated enterprise, whether the payment of service tax was made on the due date with reference to the debit or credit entry of the transaction in the books of the person liable to pay tax?

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<i>Ref.</i>	<i>Audit checkpoints</i>
4.4.8	In case the assessee has paid service tax for a transaction not subject to service tax and the same has been adjusted with other payments due, whether such adjustment appears to be appropriate in law?
4.4.9	Whether the assessee has made payment of tax on provisional basis and if so, is request for provisional payment for tax is made and whether the procedure adopted for discharge of liability on provisional basis appears to be appropriate in law?
4.4.10	Where the assessee pays service tax on provisional basis, whether the memorandum as required in Form ST-3A is filed along with the return?
4.4.11	Where the assessee makes payment of service tax for one or more taxable services in one payment challan, whether the code (related to the service) used for discharge of service tax including that of interest/penalty is correct?
4.4.12	What is the system adopted by the assessee for determining the tax liability? If assessee has more than one location, whether the information is being received on timely basis and whether the assessee has opted for centralised assessment?
4.4.13	How is the credit for input tax determined and does it seem appropriate and adequate in the circumstances of the assessee?
4.4.14	In case the assessee pays service tax at special rates as provided under sub-rule (7), (7A), (7B) or (7C) of rule 6, whether the procedure and the rates adopted are appropriate in law?

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Relevant references

Particulars	Reference
Payment of service tax	Section 68
Rule for payment of service tax	Rule 6 of Service Tax Rules, 1994
Challan for manual payment of tax	GAR- 7

4.5 Invoicing requirement

Every person providing taxable service is required to issue an invoice, bill or challan within 14 days from the date of completion of provision of taxable services or on receipt of consideration towards such taxable service. The other conditions and requirements are laid down in Rule 4 of the Service Tax Rules.

The auditor should check whether invoicing done by the service provider is in accordance with the law and ascertain the reasons for non-compliance if any, the period of non-compliance and quantify the impact, if any, on non adherence to the same and bring it out suitably in his report. The checkpoints to be adopted by the auditor for verifying appropriateness of the invoicing requirement are given below:

Ref.	Audit checkpoints
4.5.1	Whether the service provider has raised an invoice, bill or challan, as the case may be, within 14 days from the date of provision of service or the receipt of consideration for provision of taxable services, whichever is earlier?
4.5.2	In case the service provided is other than in relation to banking and other financial services, then is the invoice, challan or bill, serially numbered and whether the said invoice, bill or challan contains the following particulars:
	1 the name, address and the registration number of such person;

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Ref.	Audit checkpoints
	<ol style="list-style-type: none"> 2 the name and address of the person receiving taxable service; 3 description, classification and value of taxable service provided or to be provided; and 4 the service tax payable thereon
4.5.3	In case the input service distributor or the service provided is in relation to banking and other financial services, then whether the invoice, challan, or bill, contains the particulars mentioned in the point above?
4.5.4	In case the taxable services provided by the service provider is on continuous basis for successive periods, then whether the invoice, bill or challan is raised within 14 days from the last day of the said period?
4.5.5	In case of an invoice issued by an input service distributor, is the invoice, bill or challan serially numbered (except the one which is an office of a banking company or a financial institution) and signed by an authorized person and whether distribution of credit on the said invoice, bill or challan, appears to be appropriate in law?
4.5.6	<p>In case of an invoice raised by an input service distributor, whether the invoice, bill or challan contains the following particulars:</p> <ol style="list-style-type: none"> 1 the name, address and registration number of the person providing input services and the serial number and date of invoice, bill or challan issued thereon 2 the name and address of the said input services distributor; 3 the name and address of the recipient of the credit distributed; 4 the amount of the credit distributed
4.5.7	In case of a goods transport agency whether a

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<i>Ref.</i>	<i>Audit checkpoints</i>
	consignment note as required in Rule 4B has been issued for transport of goods by road in a goods carriage?
4.5.8	In case of continuous supply of services like construction service, is invoicing done on completion of the event or as per schedule of payment as specified in agreement/allotment letter?

Relevant references

<i>Particulars</i>	<i>Reference</i>
Invoicing requirement	Rule 4A
Consignment note requirement	Rule 4B

4.6 Record maintenance

Every person liable to pay service tax and registered under service tax is required to maintain records in that regard. No separate records are specified under service tax provisions. An assessee may also maintain such records in computerized form. The assessee is required to intimate the list of records prepared or maintained by him to the jurisdictional officer and such records are to be preserved for a period of 5 years immediately after the financial year to which they pertain. A sample accounting guide for recording service tax transactions is illustrated in Appendix- C

The auditor should check whether the records maintained by the assessee appear to be appropriate to enable the assessee to determine its service tax liability accurately. The inappropriateness in requirement to maintain sufficient and adequate records should be suitably brought out in his report. The checkpoints to be adopted by the auditor for verifying appropriateness in this regard are given below:

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<i>Ref.</i>	<i>Audit checkpoints</i>
4.6.1	Whether the assessee maintains the records in accordance with the various laws in force from time to time and such records appear to be appropriate and adequate for service tax purposes?
4.6.2	Whether the assessee maintains the records in computerized form and in such cases whether the assessee regularly takes print outs of relevant documents/ records including back up of the information contained therein as may be required for verification by the tax department?
4.6.3	Whether the assessee has intimated to the jurisdictional officer, the list of records prepared and maintained by it and whether such records or documents are actually prepared and maintained by it?
4.6.4	<p>Whether the assessee preserves the records for a period of not less than five years from the end of the financial year to which they pertain and whether they include:</p> <ul style="list-style-type: none">• all the records prepared or maintained by the assessee for accounting of transactions with respect to:<ul style="list-style-type: none">- providing of any service, whether taxable or exempted;- receipt or procurement of input services and payment for such input services;- receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, with regard to inputs and capital goods;- other activities, such as manufacture and sale of goods, if any.• all other financial records maintained in the normal course of business

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Relevant references

<i>Particulars</i>	<i>Reference</i>
Record maintenance	Rule 5

4.7 Export of service

A person exporting services out of India is exempted from payment of service tax. The exemption provided to exports is conditional and the said conditions are contained or provided in the Export of Services Rules, 2005, which became effective from 15 March, 2005. Prior to these Rules, there were other provisions and exemption notifications which contained provisions to make exports tax free.

In terms of the export of services rules, the taxable services are categorized into three baskets and there are separate criteria for separate categories of service to determine as to whether the service is to be regarded as export of service. Essentially, the services are classified based on the location of immovable property, location of performance of service and location of recipient. These three classes and the relevant basic condition are summarised in the table below:

<i>Location of:</i>	<i>Basic condition</i>
Immoveable Property	Immovable property is located outside India
Place of Performance	The performance is wholly or partly outside India
Recipient	The recipient of the service is located outside India

Each of the service is placed in one or the other basket specified above and appropriate modification is made in the Rules when new service category is introduced or existing service category is modified.

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The exemption under export of services rules is available in cases where the receipt of consideration for services is in convertible foreign exchange.

The assessee has option to pay service tax on export of service and claim rebate in respect thereof. Assessee is also entitled to claim refund of service tax paid in respect of export of service.

The Rules/provisions relating to export of service has been undergoing changes from time to time and it would be essential for the auditor to familiarise itself with the provisions during the period covered by audit.

The auditor should check whether exemption, if any, claimed towards export of service is in accordance with the law. In case, the exemption claimed on services exported is not in accordance with law, then the auditor should ascertain the reasons, the period of non-compliance and quantify the impact thereof. The inappropriateness in claiming exemption under export of service rules should also be suitably brought out in his report. The checkpoints to be adopted by the auditor for verifying appropriateness of the exemption claimed under export of service rules are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.7.1	Whether the assessee has exported services out of India and whether such services are exported without payment of service tax?
4.7.2	Whether the export conditions applicable to the category to which the service pertains to, have been complied with?
4.7.3	Whether the payments for the services exported are received in convertible foreign exchange and whether FIRC for such receipts have been verified?
4.7.4	In case where the services are exported on payment of tax, whether rebate of the taxes so paid, are claimed?

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<i>Ref.</i>	<i>Audit checkpoints</i>
4.7.5	In case, the assessee files information with any other authority in this regard or claims any other benefit with regard to exports, whether the data used for both the purposes are same and, in case of differences, whether reconciliation is done and it is appropriate ?

Relevant references

<i>Particulars</i>	<i>Reference</i>
Export of Services Rules, 2005	Notification No. 9/2005 – ST, dated 03-Mar-2005

4.8 Import of service

Ordinarily, a person providing taxable services in India is subjected to service tax in India. In addition, service tax law also brings to charge taxable services provided from outside India under specified circumstances if the payment for such services are made by the person in India. This provision was first introduced by way of Explanation to Section 65(105) which came into effect from 16 June 2005. Prior thereto, the recipient of the service provided in India by a foreign service provider was liable to pay service tax thereon if the foreign service provider did not have any office in India. This provision was contained in Rule 2(d)(iv) – definition of the term “person liable for paying the service tax”.

A more elaborate provision was introduced by way of Section 66A effective from 18 April 2006 which replaced the Explanation introduced in section 65(105). This issue has been subject matter of substantial litigation and the auditor should look up the provisions at the relevant time (i.e. as applicable during the period covered by audit) and also the latest judgements on the subject. The provisions of Rule 2(d)(iv) have since been modified in line with the provisions of section 66A.

Section 66A creates a deeming fiction under which, taxable services provided or to be provided by a person who has business

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establishment or a fixed establishment or permanent address or usual place of residence in a country other than India and such service is received by a person who has his place of business, fixed establishment, permanent address or usual place of residence, in India, are deemed to be the service provided by the recipient to self in India and are taxable in India. In such cases the recipient is deemed to be the provider of the service and the recipient is required to comply with all the requirements under service tax law with respect to registration, payment of tax, returns, etc.

The auditor should check payments made to persons outside India to ascertain as to whether the payment made is for taxable service and whether there is liability on the auditee to comply with the law in terms of applicable provisions relating to “reverse charge”. This provision is fairly complex and auditor needs to carefully examine its applicability. In case the payment under reverse charge is not in accordance with law, then the auditor should ascertain the reasons, the period of non-compliance and quantify the impact thereof. The inappropriateness in complying with the requirement for payment of service tax under reverse charge should also be suitably brought out in his report. The checkpoints to be adopted by the auditor to verify appropriateness of the payment of service tax under “reverse charge” are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.8.1	Whether the assessee has received any services provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India and whether such services are taxable services as per the provisions of service tax law ?
4.8.2	Whether the liability to pay tax in respect of such services ascertained as per the provisions of Section 66A? For example, if the service receiver is an individual and has procured the service for personal use and not for the

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Ref.	Audit checkpoints
	purpose of business, the same is not liable to tax. Also, if the service recipient in India has business establishment in India as also outside India, say, a branch, both the establishments are to be treated as separate establishments for the purpose of applying these provisions.
4.8.3	Whether provisions of Import of Service Rules are considered for determining taxability in India? These Rules require determination of proper classification of the services; determination of the category under which these are taxable as the taxability depends on three criteria under these Rules; location of immovable property, place of performance of the service and location of the recipient.
4.8.4	Whether the assessee has sought registration under service tax for the category of the services received from outside India and in respect of which the liability to pay is on him, as the recipient of the service?
4.8.5	In case the recipient has withheld tax on the amounts payable to service provider located outside India, ascertain whether the value is determined appropriately for the purpose of paying tax – the gross amount paid for service is liable to service tax.
4.8.6	In case the payment made to the person located outside India is made in foreign exchange, whether the exchange rate applied for conversion, is the rate at which the payment was made?
4.8.7	Whether the service tax computed under reverse charge is on the 'gross amount paid' for taxable services received from outside India and in case any deductions are made from the gross amount for determining tax liability, whether such deductions appear to be appropriate in law?

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Relevant references

<i>Particulars</i>	<i>Reference</i>
Liability under reverse charge	Section 66A
Taxation of Services (Provided from Outside India and Received in India) Rules, 2006	Notification No. 11/2006 – ST, dated 19-Apr-2006

4.9 Filing of returns

Under a statute levying tax, any person registered under the said statute would be required to declare the transactions undertaken by it, by filing returns within the statutory time line. Under service tax, the registered tax payers are required to self-assess the tax due and file the returns on half-yearly basis. The return is to be filed in Form ST-3 by 25th of the month following the relevant half-year.

The auditor should check whether service tax return filed by the assessee is complete in all respects and whether it matches with the data obtained from accounting records. Auditor also needs to verify the timelines when the returns are filed. In case the returns do not disclose complete information or the figures do not match those obtained from accounting records or there are computational errors, the auditor should ascertain the reasons for mismatches and quantify the impact, if any, thereof. The inappropriateness in disclosure requirement should also be suitably brought out in his report. The checkpoints to be adopted by the auditor for verifying appropriateness with respect to filing of returns are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.9.1	Whether the gross amount of receipt in respect of taxable services disclosed in the return is based on information recorded in financial books of accounts and supported by verification of corroborative documents?
4.9.2	Whether service tax amount, shown as payable or as paid in the return is based on information recorded in

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<i>Ref.</i>	<i>Audit checkpoints</i>
	financial books of accounts and supported by verification of corroborative documents?
4.9.3	Whether the gross receipts from non-taxable transactions that are disclosed in the return are based on information recorded in financial books of accounts and supported by verification of corroborative documents?
4.9.4	Whether the particulars of cenvat credit disclosed in the return is based on information recorded in financial books of accounts and supported by verification of corroborative documents?
4.9.5	Whether all information submitted in the return filed by the assessee is based on information recorded in financial books of accounts and supported by verification of corroborative documents?
4.9.6	Whether the assessee has filed the return within the statutory time prescribed ?
4.9.7	In case the return filed by the assessee is revised on account of omission or mistake, whether such revision is appropriate in law?
4.9.8	In case of provisional assessment, whether the memorandum filed along with the return discloses information as can be considered as appropriate?
4.9.9	In case the returns are filed beyond due date, whether the late fee paid by the assessee is in accordance with Rule 7C?

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Relevant references

<i>Particulars</i>	<i>Reference</i>
Filing of returns	Section 70
Requirements with respect to filing of returns	Rule 7 & 7A
Revision of Return	Rule 7B
Form for filing the return	Form ST-3
Memorandum statement with respect to provisional assessment	Form ST-3A

4.10 Cenvat credit

Provisions in relation to Cenvat Credit are quite elaborate and also complex. These provisions have been undergoing changes from time to time and have also been subject matter of fair degree of litigation. The auditor would need to familiarise himself with these provisions and its applicability in the context of the auditee. The auditor would need to identify various services that the auditee avails and the position taken by the auditee in that regard. The auditor would also need to examine which of the output services are taxable and which are not to ascertain quantum of input tax credit that the auditee can avail. The auditor would also need to ascertain the current legal position in regard to eligibility and take a view as to what he considers is eligible or ineligible for input tax credit. In case of complexities, the auditor may need to advise the auditee to take opinion in the matter. It is also essential for the auditor to examine the manner of maintenance of records relating to input service and output service as these would be required for ascertainment of the claim. The extent of checks would depend on the scope of work agreed.

Indirect Taxes Committee of ICAI has published a “Technical Guide to CENVAT Credit” which deals with the subject at fairly great depth. Auditor may like to go through it especially, if the scope of audit is detailed or CENVAT credit specific. The auditor should, on the basis of checks, assess as to whether Cenvat credit taken by

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the assessee appears to be appropriate in law and in cases where the department is taking contrary view, he needs to point that out in his report together with relevant judgements. In case the credit taken is not allowable, which could be due to simple clerical error of computation or taking Cenvat credit of the input service/inputs which are clearly ineligible, the auditor should ascertain the reasons, the period of non-compliance and quantify the impact thereof. The relevant aspects should be suitably brought out in his report. The indicative checkpoints to be adopted by the auditor for verification of Cenvat credit are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.10.1	Whether Cenvat credit has been taken only in respect of the taxes/ duties mentioned in Rule 3 of Cenvat Credit Rules, 2004 (CCR)?
4.10.2	Whether credit is taken only on “inputs” or “capital goods” received in the premises of service provider or also on input services that are received by the service provider? These terms are specifically defined.
4.10.3	Whether the Cenvat credit is utilized in the manner provided in Rule 3 of CCR?
4.10.4	Whether 50% of the Cenvat credit on capital goods (not being credit attributable to additional duty u/s. 3(5) of the Customs Tariff) is taken in the year of purchase and balance in any subsequent year unless cleared as such in the same financial year?
4.10.5	Whether Cenvat credit is reversed whenever depreciation is claimed or where the amount is charged off as expense in the profit and loss account?
4.10.6	Whether the assessee has complied with the conditions for allowing credit under Rule 4 of CCR?
4.10.7	In case refund of Cenvat credit attributable to input and input services is claimed under Rule 5 of CCR, whether they pertain to export of taxable services and whether the conditions provided in the said Rule are complied with?

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<i>Ref.</i>	<i>Audit checkpoints</i>
4.10.8	Whether Cenvat credit is claimed only in respect of the input services/inputs used for provision of taxable services?
4.10.9	In case Cenvat credit taken pertains to provision of taxable and exempted service, whether the conditions in Rule 6 are applied to determine the credit attributable to provision of taxable services and whether such application appears to be appropriate in law?
4.10.10	In case Cenvat credit is taken on services specified in Rule 6(5) of CCR, whether such services are not used wholly for provision of exempted services?
4.10.11	In case of Cenvat credit attributable to capital goods, whether credit has been wrongly taken when such capital goods are used wholly for provision of exempted services?
4.10.12	Whether the assessee has complied with the obligation specified under Rule 6 of CCR with respect to Cenvat credit that pertain to taxable and exempted services and whether they are in accordance with the law?
4.10.13	Whether the assessee has distributed input tax credit to other units belonging to the assessee as per the provisions of Rule 7 and 7A of the CCR and whether such distribution appears to be in accordance with the law?
4.10.14	Whether the documents on the strength of which input credit is taken are the eligible documents for availing Cenvat Credit and the documents contain all the details as are required as per the specifications of Rule 9 of CCR?
4.10.15	Whether the assessee has filed Cenvat Credit return as specified under Rule 9 of the CCR and whether information submitted therein is complete as per books of accounts and in accordance with the law?
4.10.16	Whether the assessee as input service distributor has

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Ref.	Audit checkpoints
	filed the return as specified under Rule 9 of the CCR and whether information submitted therein is appropriate and in accordance with the law?
4.10.17	Whether the assessee maintains proper records for the receipt and consumption of the input services and whether it provides relevant information regarding the value, tax paid, Cenvat credit taken and utilized and the person from whom the input service has been procured and whether such information is found to be materially correct and in accordance with the records?
4.10.18	In case the assessee has taken credit by transfer of Cenvat balance on account of sale, merger, amalgamation, lease or transfer of the business, under Rule 10 of CENVAT Credit Rules, then whether such transfer appears to be appropriate in law?
4.10.19	In case the assessee is a large tax payer unit, whether the procedure and provisions of Rule 12A are found to be complied with?
4.10.20	Whether the Cenvat balance as shown in the return matches with the books of accounts of corresponding period and, in case of difference, whether reconciliation is done and the reasons for differences are ascertained and dealt with appropriately?
4.10.21	Whether the accounting of Cenvat credit in the books of accounts is as per the guidance provided by the Institute and, if not, ascertain the reasons thereof?

Relevant references

Particulars	Reference
Cenvat Credit Rules, 2004 (CCR)	Notification No. 23/2004 – CE (NT), dated 10-Sep-2004

4.11 Refund of Cenvat Credit – export of services

Cenvat credit is ordinarily allowed as utilization for set-off against output tax payable by the service provider. However, in case the service provider exports services out of India and is unable to utilize the Cenvat balance against any other output tax payable by him, (exports are exempt from service tax) then the said exporter of service is allowed refund of Cenvat credit in respect of input tax relating to export of services. Similar benefit is also available to an exporter of goods. There are different schemes of refund under different notifications. The objective of granting such refund/rebate is to remove the incidence of taxes in respect of inputs and input services used for export of goods or services. Refund/rebate is available to service provider in terms of following :

- Notification No. 11/2005 – ST, dated 19-Apr-2005
- Notification No. 12/2005 – ST, dated 19-Apr-2005
- Notification No. 5/2006 – CE (NT), dated 14-Mar-2006

Ordinarily, a refund claim filed by the service provider under the aforesaid notifications is subjected to an audit by the department. Besides checking correctness of the claim so made, it would also be advisable to verify the appropriateness of the notification or provisions under which refund/rebate is claimed, the particulars of claims previously allowed, the particulars of claims previously not allowed and the reasons provided by the Department in respect of claim that is rejected. Further, in case an appeal has been preferred by the assessee against rejection of any refund claim, then the auditor should also verify the adequacy of the claims pending before the adjudication authority. Many refund claims are rejected due to inadequate supporting documents. Auditor should check whether the documents filed with the refund claim are complete in all respects. Also, often, in case of refund relating to Cenvat credit, it is found that the rejection of the claims is on account of the department's view regarding allowability or otherwise of Cenvat credit. The auditor should also verify, in detail, the eligibility of the

Conduct of the Audit and Check Points

credit keeping in mind recent judgements and should bring out this aspect in the report clearly. Under Notification No.5/2006 CE(NT) dated 14/03/06, the refund claims exceeding Rs.5 lakhs are to be certified by a Chartered Accountant who does the tax audit under section 44AB of the Income-tax Act, 1961 for the assessee. The auditor should verify whether such a verification/certification is available. The checkpoints to be adopted by the auditor for verification of the refund claim of Cenvat credit are given below:

<i>Ref.</i>	<i>Audit checkpoints</i>
4.11.1	Whether the refund claim is sustainable in law in the facts of the assessee's case? Whether there are any recent judgements which could have bearing on the refund claim of the assessee?
4.11.2	Whether the refund application filed by the assessee is within time?
4.11.3	Whether the refund application is complete in all respects and all the information/documents required to be filed for the same are filed and are in accordance with the records of the assessee? Are the supporting documents available and they are complete in all respects?
4.11.4	In respect of the claim made, whether the assessee has complied with all the procedural conditions of the concerned provision/ notification?
4.11.5	Whether refund claims have been pending for long and whether there are any queries received from the department/whether there is any correspondence and, if so, does it have any impact on the allowability of refund claim?
4.11.6	Have refund claims of the assessee been disallowed in the past? If so, whether it would have any bearing on the refund claim filed?
4.11.7	Whether any appeal having any bearing on the refund claim is pending and if so, what could be the implications thereof on the refund claim?

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Relevant references

Particulars	Reference
Rule 5 of Cenvat Credit Rules, 2004 (CCR)	Notification No. 23/2004 – CE (NT),dated 10-Sep-2004
Rebate of output service tax paid on services exported	Notification No. 11/2005 – ST, dated 19-Apr-2005
Rebate of tax paid on input and input services used for services exported	Notification No. 12/2005 – ST, dated 19-Apr-2005
Refund of unutilized cenvat balance	Notification No. 5/2006 – CE(NT) dated 14-Mar-2006

4.12 Other substantive checks

Depending on the scope of audit, the auditor may need to apply some or more of the overall substantive checks. Any negative comment in this regard could have bearing on the extent of verification to be carried out by the auditor as also on the report. Some of them are listed below:

Ref.	Audit checkpoints
4.12.1	Whether based on the information available or review of the records, it appears that the assessee maintains proper records such that transactions are properly captured/recorded and considered for determination of tax liability?
4.12.2	Whether the assessee has sufficient internal control systems to ensure that the tax liability – output and input tax is correctly determined and there are checks and balances in the system to throw up mismatches?
4.12.3	Whether the assessee has system in place for verification of the vendors and documents on the basis of which cenvat credit is availed ?

Conduct of the Audit and Check Points

Ref.	Audit checkpoints
4.12.4	Where the assessee has availed any concession or benefit under any notification, whether such concession or benefit appears to be in accordance with the law?
4.12.5	Whether the return filed by the assessee contains true and correct summary of its transactions and are supported by books of accounts and other records and documents maintained by the assessee?
4.12.6	Whether the return filed by the assessee reconciles with the financial information contained in the books of accounts and whether the explanation for the difference observed, are adequately and appropriately explained?
4.12.7	Whether on application of relevant ratios (as appropriate in the context of the business of the assessee), any discomfoting factor is noticed For eg. service tax payable over taxable value, realisations over [opening (+) sales (-) closing debtors], etc.?
4.12.8	In case the assessee has surrendered his application for registration in the year of audit, whether there appears no outstanding dues to the Government?
4.12.9	Whether the auditee has appropriate system to keep track of all the inquiries by the tax department, show cause notices received, responses filed, notice to attend hearings before assessing and appellate authorities and so on and whether, on verification, any gaps were noticed?
4.12.10	Whether there are any remarks by the internal auditor,if any and/or statutory auditor in this regard in presentations/ reports made to management/audit committee?
4.12.11	Whether the assessee has sought legal opinion on any matters and whether it is applied/ is it relevant in the current time considering amendments that may have been made in law or judgements that may have been delivered subsequently? Do the facts continue to be the same as presented at the time of seeking legal opinion?

CHAPTER 5

AUDIT FORM AND POST-AUDIT REPORT

Audit report is the final output of the reporting auditor, who gives his report on the aspects agreed with the management and set out in the scope of work in engagement letter. Sometimes, in case of continuing assignment, say, for a year, frequency and format of reporting is also agreed in advance. Auditor should ensure that the report is as per the engagement letter/terms agreed with the auditee. ICAI has issued internal audit standards and the auditor may make a reference to them in his report stating that he has carried out the audit keeping in mind the guidance available in these standards besides other standards/guidance notes/guides on which reliance may be placed by the auditor as to the methodology, etc. that is adopted in conduct of the audit.

When the reporting auditor gives his report, he is responsible for ensuring that the report is based on factual data and that his opinion is in accordance with facts, verified him, by application of due care and skill.

The reporting auditor should have a clear understanding of the scope of his assignment. In the instant case, the audit is not undertaken under any statute nor is the format of the audit report prescribed under any law. However, the audit is conducted based on the scope provided by or agreed with the assessee. In this regard, the scope of the audit may be to conduct a broad-based or high-level review of the transactions or to conduct a detailed or extensive audit. In this regard, the format of the audit report should be different, based on whether the audit is a broad-based or high-

Audit Form and Post-Audit Report

level review or a detailed or extensive check of the transactions undertaken by the assessee. In either case, an assessee may also require the auditor to check, extensively or broadly, certain aspects of relevance to him. In such cases, the report should be suitably modified to ensure that the auditor comments on specific matters of relevance that are required to the assessee.

In the instant case, as the format of the audit report is not specified under law, the auditor is free to use any form, as may be considered appropriate by him. However, in order to ensure consistency in the format and application of scope, two forms of the audit report may be designed i.e., (1) detailed or extensive audit report and (2) broad-based or high-level review report.

In case of detailed or extensive audit report, the format of the report could be split into two parts, viz. (1) the report of the auditor containing observations and comments about the substantive and procedural non-compliance including material and not-material, short comings and deficiencies in the returns filed by the enterprise for whom the audit is conducted. The main report should also draw reference on the strength of specific compliance requirements that have been requested by the enterprise or the assessee company; and (2) general information of the enterprise for whom the audit is conducted with summary of information reported by him in the service tax return including the procedural compliances by the assessee under the law. This is for the reason that in the case of a detailed or extensive audit, the auditor is required to provide an extensive comfort both on the substantive and procedural aspects of law. Therefore, the design of this report should be made elaborate and detailed. The audit report and the indicative items for inclusion are given as Appendix D to this Guide.

In case of broad-based or high-level review report, the auditor is called upon only to give a substantive comfort of the compliance under law. Accordingly, the design of the report should be made in a manner that provides observations and comments about substantive non-compliance including material short comings and deficiencies in the returns filed by the enterprise or the assessee, for whom the audit is undertaken. The main report should also

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draw reference on the strength of specific compliance requirements that have been requested by the enterprise or the assessee company.

The report or certificate should be issued by the reporting auditor to the enterprise or the assessee company, for whom the audit is conducted. The report or certificate should also mention that the audit is undertaken based on the specific request of the enterprise or the assessee company, mentioning the period for which the audit is undertaken. Further, the report or the certificate should have a specific mention about the information or documents that were provided or relied upon by the auditor for issue of the said certificate or report.

CHAPTER 6

RESPONSIBILITIES AS AN AUDITOR

An auditor who is appointed to conduct the service tax audit should undertake the audit in accordance with the pronounced accounting standards, the guidance notes and standard auditing practices of the Institute of Chartered Accountants of India. The guide only summarizes or supplements the requirements mentioned therein, with the intent to achieve the objectives of the audit. The auditor should conduct the audit adhering to the stated principles of integrity, objectivity, independence, confidentiality, undertaking due professional care, ensuring adequate skills and competence in the conduct of audit, principles on relying on the work performed by others, etc., that are governed under his professional responsibilities.

When the reporting auditor gives his report, he is responsible for ensuring that the report is based on factual data and that his report or certificate is in accordance with facts, which is arrived at by him, by application of due care and skill. Though, the primary responsibility for the contents of the financial information contained in reports rests with the enterprise for whom the audit is done, an auditor is expected to apply reasonable care and skill.

The reporting auditor should have a clear understanding of the scope of his assignment and to avoid any misunderstanding or to arrest any communication gap, the reporting auditor should put the agreed scope in writing and seek confirmation of the scope from the enterprise or the assessee, for whom the audit is undertaken. The auditor would be responsible for the factual

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accuracy of the information contained in the report issued by him. In case the reporting auditor relies upon work done by another auditor or on any technical information or report of an expert or any certificate provided by an outside agency, the reporting auditor is expected to exercise his judgement on the correctness or otherwise of the said information or representation.

In case there are any limitations in the scope of the audit or for that matter, any information as considered necessary were not provided, then the reporting auditor should state the said limitation in his report. Further, in case during the conduct of the audit, the reporting auditor does not continue to be independent for any reason, then the reporting auditor should not issue the report and refrain from the engagement.

In sum, the auditor would be responsible to conduct the audit in accordance with the scope agreed with the client and under the overall guidelines issued by the Institute of Chartered Accountants of India on the conduct of such audits. In this regard, the reporting auditor should not compromise on any mandated requirement and fulfil his obligations as an auditor.

APPENDIX-A

LIST OF TAXABLE SERVICES

Sl. No.	Taxable Service	Taxable Clause
1	Stock broker	Section 65(105)(a)
2	Telecommunication Service	Section 65(105)(zzzx)
3	General insurance	Section 65(105)(d)
4	Advertising agency	Section 65(105)(e)
5	Courier agency	Section 65(105)(f)
6	Consulting engineer	Section 65(105)(g)
7	Custom house agent	Section 65(105)(h)
8	Steamer agent	Section 65(105)(i)
9	Clearing and forwarding agent	Section 65(105)(j)
10	Manpower recruitment agent	Section 65(105)(k)
11	Air travel agent	Section 65(105)(l)
12	Mandap keeper	Section 65(105)(m)
13	Tour operator	Section 65(105)(n)
14	Rent-a-cab scheme operator	Section 65(105)(o)
15	Architect	Section 65(105)(p)
16	Interior decorator	Section 65(105)(q)
17	Management or Business consultant	Section 65(105)(r)
18	Chartered accountant	Section 65(105)(s)
19	Cost accountant	Section 65(105)(t)
20	Company secretary	Section 65(105)(u)
21	Real estate agent	Section 65(105)(v)
22	Security agency	Section 65(105)(w)

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Sl. No.	Taxable Service	Taxable Clause
23	Credit rating agency	Section 65(105)(x)
24	Market research agency	Section 65(105)(y)
25	Underwriter	Section 65(105)(z)
26	Scientific or technical consultancy	Section 65(105)(za)
27	Photography	Section 65(105)(zb)
28	Convention	Section 65(105)(zc)
29	On-line information and database access or retrieval	Section 65(105)(zh)
30	Video tape production	Section 65(105)(zi)
31	Sound recording	Section 65(105)(zj)
32	Broadcasting agency or organization	Section 65(105)(zk)
33	Insurance auxiliary services concerning general insurance business	Section 65(105)(zl)
34	Banking and other financial services	Section 65(105)(zm)
35	Port services	Section 65(105)(zn)
36	Authorized service station	Section 65(105)(zo)
37	Beauty treatment	Section 65(105)(zq)
38	Cargo handling	Section 65(105)(zr)
39	Cable operator	Section 65(105)(zs)
40	Dry cleaning	Section 65(105)(zt)
41	Event management	Section 65(105)(zu)
42	Fashion designing	Section 65(105)(zv)
43	Health club and fitness	Section 65(105)(zw)
44	Life insurance in relation to risk cover	Section 65(105)(zx)
45	Insurance auxiliary services concerning life insurance business	Section 65(105)(zy)
46	Rail travel agent	Section 65(105)(zz)
47	Storage and warehousing	Section 65(105)(zza)
48	Business auxiliary service	Section 65(105)(zzb)
49	Commercial coaching or training	Section 65(105)(zzc)

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Sl. No.	Taxable Service	Taxable Clause
50	Erection, commissioning or installation	Section 65(105)(zzd)
51	Franchise	Section 65(105)(zze)
52	Internet café	Section 65(105)(zzf)
53	Management, maintenance or repair	Section 65(105)(zzg)
54	Technical testing and analysis	Section 65(105)(zzh)
55	Technical inspection and certification	Section 65(105)(zzi)
56	Foreign exchange broker	Section 65(105)(zzk)
57	Other port	Section 65(105)(zzl)
58	Airport	Section 65(105)(zzm)
59	Transport of goods by aircraft	Section 65(105)(zzn)
60	Business exhibition	Section 65(105)(zzo)
61	Transport of goods by road	Section 65(105)(zzp)
62	Commercial or industrial construction	Section 65(105)(zzq)
63	Intellectual property	Section 65(105)(zzr)
64	Opinion poll	Section 65(105)(zzs)
65	Outdoor caterer	Section 65(105)(zzt)
66	Programme producer	Section 65(105)(zzu)
67	Survey and exploration of mineral	Section 65(105)(zzv)
68	Pandal or shamiana	Section 65(105)(zzw)
69	Travel agent	Section 65(105)(zzx)
70	Forward contract	Section 65(105)(zzy)
71	Transport of goods other than water through pipeline or other conduit	Section 65(105)(zzz)
72	Site formation and clearance and such other activities	Section 65(105)(zzza)
73	Dredging	Section 65(105)(zzzb)
74	Survey and map-making	Section 65(105)(zzzc)
75	Cleaning activity	Section 65(105)(zzzd)
76	Club or association	Section 65(105)(zzze)
77	Packaging activity	Section 65(105)(zzzf)

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Sl. No.	Taxable Service	Taxable Clause
78	Mailing list compilation and mailing	Section 65(105)(zzzg)
79	Construction of complex	Section 65(105)(zzzh)
80	Registrar to an issue	Section 65(105)(zzzi)
81	Share transfer agent	Section 65(105)(zzzj)
82	Automated teller machine operations, maintenance or management	Section 65(105)(zzzk)
83	Recovery agent	Section 65(105)(zzzl)
84	Sale of space or time for advertisement	Section 65(105) (zzzm)
85	Sponsorship	Section 65(105)(zzzn)
86	Transport of passenger embarking in India for international journey by air	Section 65(105)(zzzo)
87	Transport of goods in containers by rail	Section 65(105)(zzzp)
88	Support services of business or commerce	Section 65(105)(zzzq)
89	Auctioneers	Section 65(105)(zzzr)
90	Public relations	Section 65(105)(zzzs)
91	Ship management	Section 65(105)(zzzt)
92	Internet telecommunication	Section 65(105)(zzzu)
93	Transport by cruise ship	Section 65(105)(zzzv)
94	Credit card, debit card, charge card or other payment card	Section 65(105)(zzzw)
95	Mining	Section 65(105)(zzzy)
96	Renting of immovable property	Section 65(105)(zzzz)
97	Services involved in the execution of works contract	Section 65(105) (zzzza)
98	Development and supply of content	Section 65(105) (zzzbb)
99	Asset management service by individuals	Section 65(105) (zzzcc)
100	Design services	Section 65(105) (zzzdd)
101	Information technology software services	Section 65(105) (zzzze)

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Sl. No.	Taxable Service	Taxable Clause
102	Management of investment under ULIP	Section 65(105) (zzzzf)
103	Recognised stock exchange services	Section 65(105) (zzzzg)
104	Commodity exchange services	Section 65(105) (zzzzh)
105	Processing and clearing house services	Section 65(105)(zzzzi)
106	Supply of tangible goods for use service	Section 65(105)(zzzzj)
107	Cosmetic & plastic surgery	Section 65(105) (zzzzk)
108	Transport of coastal goods and goods through inland water including national waterways	Section 65(105)(zzzzl)
109	Legal consultancy services	Section 65(105) (zzzzm)
110	Games of chance	Section 65(105) (zzzzn)
111	Health care	Section 65(105) (zzzzo)
112	Maintenance of medical records of employees of a business entity	Section 65(105) (zzzzp)
113	Brand promotion service	Section 65(105) (zzzzq)
114	Commercial use of exploitation of any event	Section 65(105) (zzzzr)
115	Services provided by electricity exchanges	Section 65(105) (zzzzs)
116	Copyright on cinematographic films and sound recording	Section 65(105) (zzzzt)
117	Preferential location or development service by builders	Section 65(105) (zzzzu)

APPENDIX-B

FORMAT OF PRELIMINARY INFORMATION REQUEST

- 1 A note explaining the business operations of the Company
- 2 A note explaining the various streams of revenue of the company – specifically capturing details of tax paid on each stream of revenue
- 3 A note explaining position adopted by the Company regarding applicability of service tax on services rendered, on services exported and services imported by them
- 4 A note explaining position adopted by the Company regarding Cenvat Credit
- 5 Places of business of the Company
- 6 Status of registration for each of the places of business
- 7 Copy of registration certificate (for each of the places of business)
- 8 Copy of returns filed for the previous two years (for each of the places of business)
- 9 Copy of invoices raised by the Company and service tax payment challans
- 10 Copy of invoices on which Cenvat credit is availed

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- 11 Details of payments made in foreign exchange, payments made to goods transport agencies and amounts paid towards sponsorship of events
- 12 Details of accounting for output services provided to associated enterprises
- 13 Copies of legal opinions/ advice obtained by the Company on service tax matters
- 14 Summary of disputes (including notices served but not replied by the Company) with the service tax department
- 15 Copies of notices, replies, orders, appeals etc. in the above disputes
- 16 Copies of audit note issued by the department, if audit has been carried out and action taken by the company against the observations (like litigating the same, payment etc.)
- 17 Following documents for the relevant audit period:
 - Balance sheet
 - Income Tax Return
 - TDS returns
 - TDS certificates
 - Bank statements
 - VAT returns

APPENDIX-C

ACCOUNTING FOR SERVICE TAX

(A) Billing and Receipt from Debtors

1) Raising Invoice upon the customer

Sundry Debtors A/c (By full value of invoice)	1,10,300.....Dr	
To Income A/c (By charges for service provided)		1,00,000.....Cr
To Service Tax Billed A/c (By amount of Service Tax charged in the invoice)		10,300.....Cr

*(Service Tax Rate assumed 10.30% incl. education cess
and higher education cess)*

2) Receipt of payment from the customer

a) Cash/Bank A/c	99,270.....Dr	
TDS A/c (if any)	11,030.....Dr	
<i>(TDS rate assumed 10%)</i>		
To Sundry Debtors A/c. (By payment received)		1,10,300.....Cr

b) Service Tax Billed A/c	10,300.....Dr	
To Service Tax Payable A/c		10,300.....Cr

(Amount of service tax component included in receipts
and actually payable)

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6) Receipt of input service

Credit on input service (eg. Telephone) is available only when payment is made to supplier of input service.

a) When invoice is booked

Telephone Expenses A/c 11,030.....Dr

To Sundry Creditors a/c 11,030.....Cr

(Entry by full value of bill- Expenses 10,000 + Service Tax 1,030)

7) When payment is made to the service provider for expense

a) Sundry Creditors A/c 11,030.....Dr

To Cash/Bank A/c 11,030.....Cr
(By amount paid)

b) Cenvat Credit Available A/c 1,030.....Dr

To Telephone Expenses A/c 1,030.....Cr

(To the extent of Service tax component included in expenses paid to service provider)

(C) Discharging of Tax Liability

8) Payment of service tax to government

Service Tax Payable A/c 10,300.....Dr

To Cenvat Credit Available A/c 10,300.....Cr

(Discharging liability of Service tax of Rs. 10,300 by utilising CENVAT credit of of 10,300 (Rs. 5,150 on capital goods, Rs.5,150 on inputs. CENVAT credit available account will have a debit balance of Rs.10,300)

Important Points:

1. At any point of time, Service Tax Payable A/c will reflect amount payable for the month or quarter as applicable.
2. Service Tax Billed A/c and Sundry Debtors will have a correlation at any point of time on the basis of tax rate. For example if in the above example 25% of the debtors are outstanding, then Debtors A/c would be Rs. 27,575 and Service tax Billed A/c would be Rs. 2,575. To arrive and reconcile debtors vis-à-vis service tax billed, one has to simply compute it as $27,575 \times 10.30/110.30$ (tax rate /1+tax rate) = 2,575.

APPENDIX-D

AUDIT REPORT AND INDICATIVE ITEMS FOR INCLUSION

Besides the items that would be included in the audit report like, the name of the auditee, address of the auditee, period of audit, reference to the appointment letter, scope of work, limitation of scope, the manner of conduct of audit, physical visits for audit, interaction with management team, etc., the audit report ought to specify each aspect and could have following items mentioned below. The format to be adopted would vary as there is no statutory requirement for such audit and consequently, there is no specific format that is to be adopted.

Items to be included will depend upon the scope agreed with the client and in case of continuous assignment covering longer period e.g. a year, the frequency would depend upon the timeframe agreed with the auditee; it could be monthly, quarterly or even yearly.

The format could be as follows:

Issue: Briefly describe the subject covered e.g. verification of timeliness of payment of service tax during the period.

Observations: This part would cover findings and could specify the cases in which delay was noticed, etc. The reporting could be for each case, due date and date of payment or could be on exceptional basis depending on the discussion with the auditee.

Consequences: This part could set out the consequences of deficiency noticed e.g. interest charge for delay in payment of tax

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and whether it is paid or outstanding, etc. Reference to the relevant sections may also be included.

Staff Response: This item is included if the matter is discussed with the staff and they have provided feedback. It is a good practise to discuss the matters being reported with the staff handling that aspect and include their response. This would of course, depend on the terms of reference and the actions points agreed with the auditee. It also depends on the size of the organisation for which audit is carried out and the size of the team involved and so on.

Action required: This part could set out action that is required to be taken e.g. make payment, improve internal control system, etc depending on the findings.

In some cases, the auditor could also bring out the significance of the matter from risk perspective and may state as to whether it considers the matter to be high risk, medium risk or low risk. Based on this the management would take a view in the matter.

