

PUNJAB STATE POWER CORPORATION LIMITED
OFFICE OF FINANCIAL ADVISOR- F.R.SECTION
Regd. Office:PSEB Head Office, The Mall, Patiala

To

All DDOs in PSPCL,

Memo No. 50/499

Dated. 10-01-2013

Subject:- Implementation of Service Tax Rules

As per Finance Act 2012, there are some major changes in service Tax Rules w.e.f. 1.7.2012. Now negative list of services has been issued by Central Excise Deptt., Ministry of Finance, Govt. of India and in some cases, the liability of payment of service tax is put on both service provider and service receiver in respect of specified services. The list of negative services/Exempted services and services which have been made taxable on 'Reverse Charge Basis' is enclosed here with.

To implement the new Service Tax rules an expert advice was sought from Sh. Vikrant Kackria, Advocate at Panchkula. The advice has been uploaded on the website of PSPCL. Regarding obtaining Service tax Registration the advice of Advocate is reproduced as below

"PSPCL should go in for a separate registration for each premises because it would be easy to manage the same at the time of audit by the departmental officers because the service-wise records of each premises can be easily reconciled"

To authorise the DDOs in PSPCL to obtain service tax registration from Excise Department memorandum no 11 dated 26.11.2012 was placed before the Board of Directors and the same was considered in the meeting held on 21.12.2012 at Mohali where it was resolved as under:-


"Resolved that the Drawing and Disbursing Officers of Punjab State Power Corporation Limited be and are hereby authorized to obtain service tax Registration from the Central Excise Deptt, if required".

"Further Resolved that all the Drawing and Disbursing Officers be and are hereby authorized to execute & sign the documents, for and behalf of the company, as may be considered essential for obtaining Service Tax Registration".

It is therefore requested that the action may be taken accordingly. It is also brought to your notice that service tax is a liability towards Govt of India and failure to obtain registration, pay service tax and failure to furnish prescribed returns, suppression of the contract value of taxable services and failure to comply with notice do attract penal provisions as prescribed in the service tax Rules.

You are requested to obtain service Tax registration if required and contact this office if any clarification is required, in this regard.

DA/As above

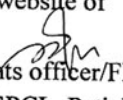

Accounts officer/FR
PSPCL, Patiala

Endst No 500/1291

Dated 10-01-2013

Copy of the above is forwarded to the followings for information and necessary action please.

1. All EIC's/CE's /Chief Auditor /CAO's/FA and CAO/ CAO to Director Finance/Cost Controller/CAO and FA, Ropar, CAO/TR in PSPCL.
2. All Dy. CE's/SE's in PSPCL
3. All Addl SE's/Sr XEN's /XEN's/Dy CAO's/Dy Secy's in PSPCL
4. All AEE's/AE's/Sr AO's /AO's in PSPCL
5. Sr PS to Director/Finance, PSPCL, Patiala.
6. Dy Secy/ Meetings, PSPCL Patiala w.r.t his U.O. no 3556 dated 28.12.2012.
7. SE/IT with a request to upload this memo on website of PSPCL.


Accounts officer/FR
PSPCL, Patiala

Negative list of services.

66D. The negative list shall comprise of the following services, namely:-

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere-

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers; or

(iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;

(b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture or agricultural produce by way of-

(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;

(ii) supply of farm labour;

(iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(v) loading, unloading, packing, storage or warehousing of agricultural produce;

(vi) agricultural extension services;

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

(e) trading of goods;

(f) any process amounting to manufacture or production of goods;

(g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television;

(h) service by way of access to a road or a bridge on payment of toll charges;

(i) betting, gambling or lottery;

(j) admission to entertainment events or access to amusement facilities;

(k) transmission or distribution of electricity by an electricity transmission or distribution utility;

(l) services by way of-

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

(m) services by way of renting of residential dwelling for use as residence;

(n) services by way of-

- (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
- (ii) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers;

(o) service of transportation of passengers, with or without accompanied belongings, by-

(i) a stage carriage;

(ii) railways in a class other than-

(A) first class; or

(B) an air conditioned coach;

(iii) metro, monorail or tramway;

(iv) inland waterways;

(v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and

(vi) metered cabs, radio taxis or auto rickshaws;

(p) services by way of transportation of goods-

(i) by road except the services of-

(A) a goods transportation agency; or

(B) a courier agency;

(ii) by an aircraft or a vessel from a place outside India to the customs station of clearance in India; or

(iii) by inland waterways;

(q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

Further, there are certain services which have been made taxable on 'Reverse Charge Basis'. The following categories of taxable services would come under the category of 'Reverse Charge' --

Sl. No	Description of a service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
1	in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business	Nil	100%
2	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	Nil	100%
3	in respect of services provided or agreed to be provided by way of sponsorship	Nil	100%
4	in respect of services provided or agreed to be provided by an arbitral tribunal	Nil	100%
5	in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services	Nil	100%
6	in respect of services provided or agreed to be provided by Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994.	Nil	100%
7.	(a) in respect of services provided or agreed to be provided by way of	Nil	100 %

	renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business (b) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business	60%	40%
8.	in respect of services provided or agreed to be provided by way of supply of manpower for any purpose	25%	75 %
9.	in respect of services provided or agreed to be provided in service portion in execution of works contract	50%	50%
10	in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory	Nil	100%

It is to be mentioned in this context that the payment of service tax on reverse charges would be payable irrelevant of the value of services provided by the service provider. Even if the value of service provided is less than Rs. 10 lacs, then also PSPCL would be liable to pay service tax on reverse charges basis.

The following services have been exempted vide Notification No. 12/2012. The services which are exempt from whole of the service tax leviable thereon under section 66-B of the Finance Act are given hereunder:

1. Services provided to the United Nations or a specified international organization;
2. Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
3. Services by a veterinary clinic in relation to health care of animals or birds;
4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
5. Services by a person by way of-
 - (a) renting of precincts of a religious place meant for general public; or
 - (b) conduct of any religious ceremony;
6. Services provided to any person other than a business entity by -
 - (a) an individual as an advocate; or
 - (b) a person represented on and as arbitral tribunals;
7. Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India;
8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;
9. Services provided-
 - (a) to an educational institution by way of catering under any centrally assisted mid – day meals scheme sponsored by Government;
 - (b) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff;
 - (c) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education;
10. Services provided to a recognised sports body by-
 - (a) an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body;
 - (b) another recognised sports body;
11. Services by way of sponsorship of tournaments or championships organised,-

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
- (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat;
- (c) by Central Civil Services Cultural and Sports Board;
- (d) as part of national games, by Indian Olympic Association; or
- (e) under PanchayatYuvaKreedaAurKhelAbhiyaan (PYKKA) Scheme;

12. Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of -

- (a) a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use;
- (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
- (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
- (d) canal, dam or other irrigation works;
- (e) pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii)sewerage treatment or disposal; or
- (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation* 1 to clause 44 of section 65 B of the said Finance Act;

13. Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of,-

- (a) road, bridge, tunnel, or terminal for road transportation for use by general public;
- (b) building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961)and meant predominantly for religious use by general public;
- (c) pollution control or effluent treatment plant, except located as a part of a factory; or
- (d) electric crematorium;

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

- (a) airport, port or railways;
- (b) single residential unit otherwise as a part of a residential complex;
- (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;

- (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
- (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;
- 15. Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;
- 16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
- 17. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
- 18. Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below rupees one thousand per day or equivalent;
- 19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a licence to serve alcoholic beverages;
- 20. Services by way of transportation by rail or a vessel from one port in India to another of the following goods -
 - (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
 - (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - (c) defence or military equipments;
 - (d) postal mail, mail bags or household effects;
 - (e) newspaper or magazines registered with Registrar of Newspapers;
 - (f) railway equipments or materials;
 - (g) agricultural produce;
 - (h) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
 - (i) chemical fertilizer and oilcakes;
- 21. Services provided by a goods transport agency by way of transportation of -
 - (a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
 - (b) goods where gross amount charged on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or

(c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;

22. Services by way of giving on hire -

(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or

(b) to a goods transport agency, a means of transportation of goods;

23. Transport of passengers, with or without accompanied belongings, by -

(a) air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; or

(b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;

24. Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;

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

(a) repair of a ship, boat or vessel;

(b) effluents and sewerage treatment;

(c) waste collection or disposal;

(d) storage, treatment or testing of water for drinking purposes; or

(e) transport of water by pipeline or conduit for drinking purposes;

26. Services of general insurance business provided under following schemes -

(a) Hut Insurance Scheme;

(b) Cattle Insurance under Swarnajayanti Gram SwarozgarYojna (earlier known as Integrated Rural Development Programme);

(c) Scheme for Insurance of Tribals;

(d) Janata Personal Accident Policy and Gramin Accident Policy;

(e) Group Personal Accident Policy for Self-Employed Women;

(f) Agricultural Pumpset and Failed Well Insurance;

(g) premia collected on export credit insurance;

(h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;

(i) Jan ArogyaBima Policy;

(j) National Agricultural Insurance Scheme (RashtriyaKrishiBimaYojana);

(k) Pilot Scheme on Seed Crop Insurance;

(l) Central Sector Scheme on Cattle Insurance;

(m) Universal Health Insurance Scheme;

(n) RashtriyaSwasthyaBimaYojana; or

(o) Coconut Palm Insurance Scheme;

27. Services provided by an incubatee up to a total business turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-

(a) the total business turnover had not exceeded fifty lakh rupees during the preceding financial year; and

- (b) a period of three years has not lapsed from the date of entering into an agreement as an incubatee;
- 28. Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution -
 - (a) as a trade union;
 - (b) for the provision of exempt services by the entity to third persons; or
 - (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
- 29. Services by the following persons in respective capacities -
 - (a) a sub-broker or an authorised person to a stock broker;
 - (b) an authorised person to a member of a commodity exchange;
 - (c) a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund;
 - (d) a selling or marketing agent of lottery tickets to a distributor or a selling agent;
 - (e) a selling agent or a distributor of SIM cards or recharge coupon vouchers; or
 - (f) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;
- 30. Carrying out an intermediate production process as job work in relation to -
 - (a) agriculture, printing or textile processing;
 - (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);
 - (c) any goods on which appropriate duty is payable by the principal manufacturer; or
 - (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
- 31. Services by an organiser to any person in respect of a business exhibition held outside India;
- 32. Services by way of making telephone calls from -
 - (a) departmentally run public telephones;
 - (b) guaranteed public telephones operating only for local calls; or
 - (c) free telephone at airport and hospitals where no bills are being issued;
- 33. Services by way of slaughtering of bovine animals;
- 34. Services received from a service provider located in a non-taxable territory by -
 - (a) the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or
 - (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities.

17-09-2012

To

The Accounts Officer/FR,
Punjab State Power Corporation Ltd.,
PATIALA.

Sir,

Sub: Opinion in respect of applicability of Service Tax on the Services provided by M/s Punjab State Power Corporation Ltd.

Kindly refer to your office letter Memo No. 1677 dated 14-08-2012 wherein you had sought legal opinion in respect of applicability of Service Tax on the Services with effect from 1-07-2012.

2. In this context, it is to be mentioned that now all the services are taxable except the services provided in the Negative List as per Section 66D of the Finance Act, 1994 or some of the services exempted vide certain Notifications. At this stage, it would be appropriate to reproduce hereunder the definition of 'Service' as provided under section 65-B of the Finance Act:-

(44) "service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include-

(a) an activity which constitutes merely,-

(i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or

(ii) such transfer, delivery or supply of any goods which is deemed to be sale within the meaning of clause (29A) of article 366 of the Constitution; or

(iii) a transaction in money or actionable claim;

(b) a provision of service by an employee to the employer in the course of or in relation to his employment;

(c) fees taken in any Court or tribunal established under any law for the time being in force.

Explanation 1.- For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,-

(A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or

(B) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(C) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

Explanation 2.- For the purposes of this clause, transaction in money shall not include any any activity relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Explanation 3.- For the purposes of this Chapter,-

(a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;

(b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.

Explanation 4.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;

All Services other than those in the Negative List, would be taxable and would attract the levy of Service Tax. The following Services are under the ambit of Negative List which includes as under:

Negative list of services.

66D. The negative list shall comprise of the following services, namely:-

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere-

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers; or

(iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities;

(b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture or agricultural produce by way of-

(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;

(ii) supply of farm labour;

(iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(v) loading, unloading, packing, storage or warehousing of agricultural produce;

(vi) agricultural extension services;

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

(e) trading of goods;

(f) any process amounting to manufacture or production of goods;

(g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television;

(h) service by way of access to a road or a bridge on payment of toll charges;

(i) betting, gambling or lottery;

(j) admission to entertainment events or access to amusement facilities;

(k) transmission or distribution of electricity by an electricity transmission or distribution utility;

(l) services by way of-

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course;

(m) services by way of renting of residential dwelling for use as residence;

(n) services by way of-

(i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;

(ii) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers;

(o) service of transportation of passengers, with or without accompanied belongings, by-

(i) a stage carriage;

(ii) railways in a class other than-

(A) first class; or

(B) an airconditioned coach;

(iii) metro, monorail or tramway;

(iv) inland waterways;

(v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and

(vi) metered cabs, radio taxis or auto rickshaws;

(p) services by way of transportation of goods-

(i) by road except the services of-

(A) a goods transportation agency; or

(B) a courier agency;

(ii) by an aircraft or a vessel from a place outside India to the customs station of clearance in India; or

(iii) by inland waterways;

(q) funeral, burial, crematorium or mortuary services including transportation of the deceased

3. Since yours is a Company, thus, it may be made clear that you would not fall under the category of 'Government' or 'Local Authority' and, thus, the services provided by you would be taxable. Even though the phrase '**Government**' has not been defined under the Act, but as per Clause (23) of Section 3 of the General Clauses Act, 1987, Government includes both Central Government and State Government. As per Clause (8) of Section 3 of the said Act, Central Government in relation to anything done or to be done after the commencement of the Constitution means the President. As per Article 53 of the Constitution, the executive powers of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Govt. of India shall be expressed to be

taken in the name of President. Therefore, the Central Government means the President and the Officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. Similarly, as per Clause (16) of Section 3 of the General Clauses Act, 1897, State Government, as respects anything done after the commencement of the Constitution, shall have been, in a State, the Governor, and in the Union Territory, the Central Government. Further, as per Article 154 of the Constitution, the executive powers of the State shall be vested in the Governor and shall be exercised by him with the Constitution. Further, as per Article 166 of the Constitution, all executive actions of the Governor of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officer subordinate to him who exercises the executive power of the State vested in the Governor and in the name of Governor. The only service that comes under the Negative List applicable to you would be 'Transmission or Distribution of Electricity by Electricity Transmission or Distribution Utility' provided under Section 65B of the Act, which includes the following:

- (a) The Central Electricity Authority
- (b) The State Electricity Board
- (c) The Central Transmission Utility
- (d) The State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003)
- (e) A distribution or transmission licensee licensed under the said Act.
- (f) Any other entity entrusted with such function by the Central or State Govt.

4. As per our understanding, you would be covered under the definition of 'Electricity Transmission' or 'Distribution Utility'. Thus, only the services relating to transmission or distribution would fall under the category of Negative List and the other services provided by you would be taxable. As regards your specific query with regard to levability of Service Tax on meter rental charges and amount received for depository works, it is to be mentioned that the Department had earlier issued a clarification vide

Circular No. 131/2010 dated 7-12-2010 wherein it was clarified that the supply of electricity meter for hire to the consumer, being an essential activity having direct and close nexus with transmission and distribution of electricity, the same is covered by the exemption for transmission and distribution of electricity and, thus, would be covered under the exemption granted earlier vide Notification No. 11/2010-ST, dated 27-2-2010 and 32/2010-ST, dated 22-06-2010. Even though, the above mentioned notifications have been rescinded but the transmission and distribution service has been included in the negative list and, thus, meter hire charges as well as depository work charges would be covered under services relating to transmission or distribution of electricity and the clarification dated 7-10-2010 earlier given by the Department would be directly applicable in the present case and hence such charges should not be liable to service tax.

5. Further, nine activities have been specified as 'Declared Services' under section 66-E of the Finance Act, 1994. Even though these activities may not specifically qualify the definition of service, yet the same would be taxable as they have been categorized under 'Declared Services'. The services which have been classified as 'Declared Services' are as under:

1. Renting of Immoveable property,
2. Construction of a complex, building Civil structure or a part thereof, including a complex, or building intended for sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by a competent authority,
3. Temporary Transfer or permitting the use or enjoyment of any intellectual property right,
4. Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of I.T. Software,

5. Agreeing to the obligation to refrain from an act or to tolerate an act or a situation or to do an act,
6. Transfer of goods by way of hiring, leasing, licencing or in any such manner without transfer of right to use such goods,
7. Activities in relation to delivery of goods on hire purchase or any system of payment by installment.
8. Service portion in execution of a works contract.
9. Service portion in an activity wherein goods being foods or any other article of human consumption or any drink is supplied in any manner as part of activity.

6. Further, there are certain services which have been made taxable on 'Reverse Charge Basis'. The following categories of taxable services would come under the category of 'Reverse Charge' --

Sl.No.	Description of a service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
1	in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business	Nil	100%
2	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	Nil	100%
3	in respect of services provided or agreed to be provided by way of sponsorship	Nil	100%
4	in respect of services provided or agreed to be provided by an arbitral tribunal	Nil	100%

5	in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services	Nil	100%
6	in respect of services provided or agreed to be provided by Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994	Nil	100%
7	(a) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business (b) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business	Nil 60%	100 % 40%
8.	in respect of services provided or agreed to be provided by way of supply of manpower for any purpose	25%	75 %
9.	in respect of services provided or agreed to be provided in service portion in execution of works contract	50%	50%
10	in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory	Nil	100%

It is to be mentioned in this context that the payment of service tax on reverse charges would be payable irrelevant of the value of services provided by the service provider. Even if the value of service provided is less than Rs. 10 lacs, then also you would be liable to pay service tax on reverse charges basis.

7. The following services have been exempted vide Notification No. 12/2012. The services which are exempt from whole of the service tax leviable thereon under section 66-B of the Finance Act are given hereunder:

1. Services provided to the United Nations or a specified international organization;
2. Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
3. Services by a veterinary clinic in relation to health care of animals or birds;
4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
5. Services by a person by way of-
 - (a) renting of precincts of a religious place meant for general public; or
 - (b) conduct of any religious ceremony;
6. Services provided to any person other than a business entity by -
 - (a) an individual as an advocate; or
 - (b) a person represented on and as arbitral tribunals;
7. Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India;
8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;
9. Services provided-
 - (a) to an educational institution by way of catering under any centrally assisted mid – day meals scheme sponsored by Government;
 - (b) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff;
 - (c) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education;
10. Services provided to a recognised sports body by-
 - (a) an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body;
 - (b) another recognised sports body;
11. Services by way of sponsorship of tournaments or championships organised,-

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
 - (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat;
 - (c) by Central Civil Services Cultural and Sports Board;
 - (d) as part of national games, by Indian Olympic Association; or
 - (e) under PanchayatYuvaKreedaAurKhelAbhiyaan (PYKKA) Scheme;
12. Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of -
- (a) a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use;
 - (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
 - (d) canal, dam or other irrigation works;
 - (e) pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii)sewerage treatment or disposal; or
 - (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation 1* to clause 44 of section 65 B of the said Finance Act;
13. Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of,-
- (a) road, bridge, tunnel, or terminal for road transportation for use by general public;
 - (b) building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961)and meant predominantly for religious use by general public;
 - (c) pollution control or effluent treatment plant, except located as a part of a factory; or
 - (d) electric crematorium;
14. Services by way of erection or construction of original works pertaining to,-
- (a) airport, port or railways;
 - (b) single residential unit otherwise as a part of a residential complex;
 - (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
 - (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
 - (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;

15. Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;
16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
17. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
18. Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below rupees one thousand per day or equivalent;
19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a licence to serve alcoholic beverages;
20. Services by way of transportation by rail or a vessel from one port in India to another of the following goods -
 - (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
 - (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - (c) defence or military equipments;
 - (d) postal mail, mail bags or household effects;
 - (e) newspaper or magazines registered with Registrar of Newspapers;
 - (f) railway equipments or materials;
 - (g) agricultural produce;
 - (h) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
 - (i) chemical fertilizer and oilcakes;
21. Services provided by a goods transport agency by way of transportation of -
 - (a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
 - (b) goods where gross amount charged on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or
 - (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;
22. Services by way of giving on hire -
 - (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
 - (b) to a goods transport agency, a means of transportation of goods;
23. Transport of passengers, with or without accompanied belongings, by -

- (a) air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Baghdogra located in West Bengal; or
- (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;
- 24. Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;
- 25. Services provided to the Government or a local authority by way of -
 - (a) repair of a ship, boat or vessel;
 - (b) effluents and sewerage treatment;
 - (c) waste collection or disposal;
 - (d) storage, treatment or testing of water for drinking purposes; or
 - (e) transport of water by pipeline or conduit for drinking purposes;
- 26. Services of general insurance business provided under following schemes -
 - (a) Hut Insurance Scheme;
 - (b) Cattle Insurance under Swarnajaynti Gram SwarozgarYojna (earlier known as Integrated Rural Development Programme);
 - (c) Scheme for Insurance of Tribals;
 - (d) Janata Personal Accident Policy and Gramin Accident Policy;
 - (e) Group Personal Accident Policy for Self-Employed Women;
 - (f) Agricultural Pumpset and Failed Well Insurance;
 - (g) premia collected on export credit insurance;
 - (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
 - (i) Jan ArogyaBima Policy;
 - (j) National Agricultural Insurance Scheme (RashtriyaKrishiBimaYojana);
 - (k) Pilot Scheme on Seed Crop Insurance;
 - (l) Central Sector Scheme on Cattle Insurance;
 - (m) Universal Health Insurance Scheme;
 - (n) RashtriyaSwasthyaBimaYojana; or
 - (o) Coconut Palm Insurance Scheme;
- 27. Services provided by an incubatee up to a total business turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-
 - (a) the total business turnover had not exceeded fifty lakh rupees during the preceding financial year; and
 - (b) a period of three years has not lapsed from the date of entering into an agreement as an incubatee;
- 28. Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution -
 - (a) as a trade union;
 - (b) for the provision of exempt services by the entity to third persons; or
 - (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
- 29. Services by the following persons in respective capacities -
 - (a) a sub-broker or an authorised person to a stock broker;

- (b) an authorised person to a member of a commodity exchange;
 - (c) a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund;
 - (d) a selling or marketing agent of lottery tickets to a distributor or a selling agent;
 - (e) a selling agent or a distributor of SIM cards or recharge coupon vouchers; or
 - (f) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;
30. Carrying out an intermediate production process as job work in relation to -
- (a) agriculture, printing or textile processing;
 - (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);
 - (c) any goods on which appropriate duty is payable by the principal manufacturer; or
 - (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
31. Services by an organiser to any person in respect of a business exhibition held outside India;
32. Services by way of making telephone calls from -
- (a) departmentally run public telephones;
 - (b) guaranteed public telephones operating only for local calls; or
 - (c) free telephone at airport and hospitals where no bills are being issued;
33. Services by way of slaughtering of bovine animals;
34. Services received from a service provider located in a non- taxable territory by -
- (a) the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or
 - (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities.

2. Definitions. - for the purpose of this notification, unless the context otherwise requires, –

1. “advocate” has the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961),
2. “appropriate duty” means duty payable on manufacture or production under a Central or a State Act, but shall not include ‘Nil’ rate of duty or duty wholly exempt,
3. “arbitral tribunal” has the meaning assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996 (26 of 1996),
4. “authorised medical practitioner” means any medical practitioner registered with any of the Councils of the recognised system of medicine and includes medical professional having the requisite

qualification to practice in any recognised system of medicine as per any law for the time being in force,

5. "authorised person" means and includes any person whether being an individual, partnership firm, limited liability partnership or body corporate, who is appointed as such either by a stock broker including trading member or by a member of commodity exchange and who provides access to trading platform of a stock exchange or a commodity exchange, as an agent of the stock broker or member of a commodity exchange,
6. "banking company" has the meaning assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934),
7. "business facilitator or business correspondent" means an intermediary appointed under business facilitator model or business correspondent model by a banking company or an insurance company under the guidelines issued by Reserve Bank of India,
8. "clinical establishment" means a hospital, nursing home, clinic, sanatorium or an institution by whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine, established and administered or maintained by any person or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases,
9. "charitable activities" means activities relating to -
 - (a) public health by way of -
 - (I) care or counseling of (i) terminally ill persons or persons with severe physical or mental disability, (ii) persons afflicted with HIV or AIDS, or (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (II) public awareness of preventive health, family planning or prevention of HIV infection;
 - (b) advancement of religion;
 - (c) advancement of educational programmes or skill development relating to,-
 - (I) abandoned, orphaned or homeless children;
 - (II) physically or mentally abused and traumatized persons;
 - (III) prisoners; or
 - (IV) persons over the age of 65 years residing in a rural area;
 - (d) preservation of environment including watershed, forests and wildlife; or
 - (e) advancement of any other object of general public utility up to a value of twenty five lakh rupees in a financial year subject to the condition that total value of such activities had not exceeded twenty five lakhs rupees during the preceding financial year.

Explanation: - For the purpose of this clause, 'general public' means the body of people at large sufficiently defined by some common quality of public or impersonal nature.

10. "commodity exchange" means an association as defined in section 2 (j) and recognized under section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952),
11. "contract carriage" has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988),
12. "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but does not include any discount offered on the published charges for such unit,
13. "distributor or selling agent" has the meaning assigned to them in clause (c) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 278(E), dated the 1st April, 2010 and shall include distributor or selling agent authorised by the lottery organising State,
14. "general insurance business" has the meaning assigned to it in clause (g) of section 3 of General Insurance Business (Nationalisation) Act, 1972 (57 of 1972),
15. "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988),
16. "health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine and includes services by way of supply of meals for the patient or transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma,
17. "incubatee" means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products,
18. "insurance company" means a company carrying on life insurance business or general insurance business,
19. "life insurance business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938),
20. "original works" means -
 - (a) all new constructions; or
 - (b) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable,
21. "principal manufacturer" means any person who gets goods manufactured or processed on his account from another person,
22. "recognized sports body" means (i) the Indian Olympic Association, (ii) Sports Authority of India, (iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of

- the Central Government, and its affiliate federations, (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government, (v) the International Olympic Association or a federation recognised by the International Olympic Association or (vi) a federation or a body which regulates a sport at international level,
23. "religious place" means a place which is primarily meant for conduct of prayers or worship pertaining to a religion,
 24. "residential complex" means any complex comprising of a building or buildings, having more than one single residential unit,
 25. "rural area" means the area comprised in a village as defined in land revenue records, excluding,-
 - (i) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or
 - (ii) any area that may be notified as an urban area by the Central Government or a State Government,
 26. "single residential unit" means an independent residential unit with specific facilities for living, cooking and sanitary requirements,
 27. "specified international organisation" means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply,
 28. "state transport undertaking" has the meaning assigned to it in clause (42) of Section 2 of the Motor Vehicles Act, 1988 (59 of 1988),
 29. "sub-broker" has the meaning assigned to it in sub-clause (gc) of clause 2 of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) (Second Amendment) Regulations, 2006,
 30. "trade union" has the meaning assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926).

8. Thus, for the services not covered under the Negative List, you would have to take Service Tax Registration which is to be applied on-line and pay the Tax on monthly basis. As regards taking of service tax registration, it is to be mentioned that you have two options either to apply for centralized registration for all the different Departments situated at different places, but the condition is that you should have a centralized billing or accounting system at the place from where you are applying for a Central Excise Registration. The other option is that you can apply for separate registration for separate premises from where the service has been provided. In that case, separate return will be required to be filed for each premises and the tax will be deposited individually. As per our opinion, you should go in for a separate registration

for each premises because it would be easy to manage the same at the time of audit by the departmental officers because the servicewise records of each premises can be easily reconciled. However, it is your option to go in either for the central registration or for individual registration of each premises. The tax is to be paid by 5th of the succeeding month. The service tax is deposited on GAR-7 Challan which is enclosed herewith for your record. The service tax is deposited in designated branches of various banks which can be verified from the local Service Tax Authority. The returns of the same as on today is to be filed on half-yearly basis and the same are to be filed by 25th of April & 25th of October respectively, but there is a proposal to change the same and make it on quarterly basis. These change regarding filing of returns have not been made applicable as on date and would be informed to you as and when the same is made applicable. These are basically the major changes as provided by the Finance Act, 2012. In case any other clarification is required, then we may accordingly be informed.

Thanking you,

Yours faithfully,

(Vikrant Kackria)
Advocate

Encl: GAR-7 Challan