

### SERVICE TAX

#### Clarification on Restaurant Services

Finance Act, 2013 had enhanced the scope of taxability of services provided by a restaurant, eating joint or a mess in relation to serving of food or beverages **by which all restaurants with air-conditioning or central air heating (including restaurants not serving liquor as well) in any part of the establishment at any time during the year became liable to service tax.**

CBCE has clarified the following issued in relation to such service:

1. In a complex where air conditioned as well as non-air conditioned restaurants are operational but food is sourced from the common kitchen, will service tax arise in the non-air conditioned restaurant?

**Clarification :** *Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as "specified restaurant') **attracts service tax.***

*In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non air-conditioned or non centrally air- heated restaurant will not be liable to service tax. In such cases, service provided in the non air-conditioned / non-centrally air-heated restaurant will be treated as exempted service and credit entitlement will be as per the Cenvat Credit Rules.*

2. In a hotel, if services are provided by a specified restaurant in other areas e.g. swimming pool or an open area attached to the restaurant, will service tax arise?

**Clarification:** *Yes. Services provided by specified restaurant in other areas of the hotel are liable to service tax.*

3. Whether service tax is leviable on goods sold on MRP basis across the counter as part of the Bill/invoice.

**Clarification:** *If goods are sold on MRP basis (fixed under the Legal Metrology Act) they have to be excluded from total amount for the determination of value of service portion.*

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