

# INDIRECT TAXES UPDATE – 146

## SERVICE TAX

### Scope of Term “Testing” clarified under Negative List in relation to agriculture or its produce

Section 66D(d) of the Finance Act, 1994 under Negative list covers **services relating to agriculture or agricultural produce by way of agricultural operations directly related to production of any agricultural produce** including cultivation, harvesting, threshing, plant protection or **testing**.

It may also be noted that Finance Act 2013 omitted the word “seed” prefixed to “seed testing” in Negative List with an intent to allow the benefit to all other testing in relation to “agriculture” or “agricultural produce” and so as to broaden the scope of coverage of the negative list entry and not to limit its scope only to seeds.

Now, CBEC *vide Circular No. 189/8/2015-Service Tax dated 26<sup>th</sup> November 2015* has clarified that all testing and ancillary activities to testing such as seed certification, technical inspection, technical testing, analysis, tagging of seeds, rendered during testing of seeds, are covered within the meaning of testing as mentioned in sub-clause (i) of clause (d) of section 66D of the Finance Act, 1994. **Testing cannot stand in isolation of certification and other ancillary activities.** Testing cannot be random, somebody has to register for testing. **If certificate is not received and seeds are not tagged, testing is irrelevant.** Thus, all processes are a part of the composite process and cannot be separated from testing. Therefore, such services are not liable to Service Tax under section 66B of the Finance Act, 1994.

While clarifying this issue, CBEC, has referred the definition of Agriculture, Agriculture Produce, Agricultural operations defined in Finance Act, 1994.

[ *Circular No. 189/8/2015-Service Tax dated 26<sup>th</sup> November 2015* ]

Source: [www.cbec.gov.in](http://www.cbec.gov.in)

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