आयुक्त का कार्यालय,
केंद्रीय उत्पाद व सीमा शुल्क, वडोदरा-I, केंद्रीय उत्पाद शुल्क भवन, रेस कोर्स
वडोदरा-390 007

OFFICE OF THE COMMISSIONER,
CENTRAL EXCISE & CUSTOMS,
CENTRAL EXCISE BUILDING, RACE COURSE,
VADODARA- 390 007

TRADE NOTICE NO.01/ 2009- ST
VADODARA, DATED 26.02. 2009

Enclosed are copies of following Circulars of the Central Board of Excise and Customs, New Delhi :-

Sr.No.	Circular Number and Date	File No.
01.	107/01/2009-ST dtd. 28-01-2009.	137/23/2007-CX.4
02.	108/02/2009-ST dtd. 29-01-2009	137/12/2006-CX.4
03	109/03/2009 dtd. 23-02-2009	137/186/2007-CX.4
04	110/4/2009-ST dtd. 23.02.2009	345/17/2008-TRU
05.	111/05/2009-ST dtd. 24-02-2009	137/307/2007-CX.4 (Pt.)

All Trade Associations and Chambers of Commerce and Members of Regional Advisory Committee are requested to publicise the contents including enclosures of this Trade Notice among their members / constituents.

Encl: As above

(Dr. Ashir Tyagi)
Joint Commissioner (Tech),
Central Excise & Customs,
Vadodara-I.

F.No.IV/16-21/ST/2009

Vadodara, dtd. 26/02/2009.

Copy forwarded to:- As per mailing list.

(19)

Circular No. 110/4/2009-ST.

F. No. 345/ 17 /2008-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit
*****

New Delhi, the 23rd February, 2009.

Subject: Reference from Commissioner Nashik seeking clarification in respect of levy of service tax on Repair/ renovation/ widening of roads – Regarding.

Representations have been received by the Board pointing out divergent practices being followed by field formations with regard to levy of service tax on maintenance and repair of roads.

Commercial or industrial construction service [section 65(105) (zzq)] specifically covers construction or repairs of roads. However, management, maintenance or repair carried out under a contract or an agreement in relation to properties, whether immovable or not, is liable to service tax under section 65(105) (zzg) of the Finance Act, 1994. There is no specific exemption under this service for maintenance or repair of roads etc. Reading the definitions of these two taxable services in tandem leads to the conclusion that while construction of road is not a taxable service, management, maintenance or repair of roads are included in the ambit of taxable services, attracting service tax.

The next issue requiring resolution is the types of activities that can be called as 'construction of road' as against the activities which should fall under the category of maintenance or repair of roads. In this regard the technical literature on the subject indicate that the activities can be categorized as follows,-

(a) Maintenance or repair activities:

I. Resurfacing
II. Renovation
III. Strengthening
IV. Relaying
V. Filling of potholes

(17)

(iv) Construction Activities:

I. Laying of a new road

II. Widening of narrow road to broader road (such as conversion of a two lane road to a four lane road)

III. Changing road surface (graveled road to metalled road/ metalled road bituminised/ blacktopped blacktopped to concrete etc)

The cases may be decided/ revenue should be protected based on the above clarification. Suitable Trade and Public notices may be issued for information of the trade and field formations.

Receipt of this Circular may please be acknowledged.

Hindi Version will follow.

Yours faithfully,

(Unmesh Sharad Wagh)
Under Secretary (TRU)

(13)

Circular No.111/05/2009-ST

F.No.137/307/2007-CX.4 (Pt.)
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)
*****

New Delhi, dated the 24th February, 2009.

Subject: Applicability of the provisions of the Export of Services Rules, 2005 in certain situations

In terms of rule 3 (2) (a) of the Export of Services Rules 2005, a taxable service shall be treated as export of service if *such service is provided from India and used outside India*" Instances have come to notice that certain activities, illustrations of which are given below, are denied the benefit of export of services and the refund of service tax under rule 5 of the Cenvat Credit Rules, 2004 [notification No. 5/2006-CE (NT) dated 14.03.2006] on the ground that these activities do not satisfy the condition 'used outside India',-

(i) Call centres engaged by foreign companies who attend to calls from customers or prospective customers from all around the world including from India;
(ii) Medical transcription where the case history of a patient as dictated by the doctor abroad is typed out in India and forwarded back to him;
(iii) Indian agents who undertake marketing in India of goods of a foreign seller. In this case, the agent undertakes all activities within India and receives commission for his services from foreign seller in convertible foreign exchange;
(iv) Foreign financial institution desiring transfer of remittances to India, engaging an Indian organisation to dispatch such remittances to the receiver in India. For this, the foreign financial institution pays commission to the Indian organisation in foreign exchange for the entire activity being undertaken in India.

The departmental officers seem to have taken a view in such cases that since the activities pertaining to provision of service are undertaken in India, it cannot be said that the use of the service has been outside India.

2 The matter has been examined. Sub-rule (1) of rule 3 of the Export of Services Rule, 2005 categorizes the services into three categories:

(i) Category (I) [Rule 3(1)(i)] : For services (such as Architect service, General Insurance service, Construction service, Site Preparation service) that have some nexus with immovable property, it is provided that the provision of such service would be 'export' if they are provided in relation to an immovable property situated outside India.

(ii) Category (II) [Rule 3(1)(ii)] : For services (such as Rent-a-Cab operator, Market Research Agency service, Survey and Exploration of Minerals service, Convention service, Security Agency service, Storage and Warehousing service) where the place of performance of service can be established, it is provided that provision of such services would be 'export' if they are performed (or even partly performed) outside India.

(iii) Category (III) [Rule 3(1)(iii)] : For the remaining services (that would not fall under category I or II), which would generally include knowledge or technique based services, which are not linked to an identifiable immovable property or whose location of performance cannot be readily identifiable (such as, Banking and Other Financial services, Business Auxiliary services and Telecom services), it has been specified that they would be 'export',-

(a) if they are provided in relation to business or commerce to a recipient located outside India; and
(b) if they are provided in relation to activities other than business or commerce to a recipient located outside India at the time when such services are provided.

3. It is an accepted legal principle that the law has to be read harmoniously so as to avoid contradictions within a legislation. Keeping this principle in view, the meaning of the term 'used outside India' has to be understood in the context of the characteristics of a particular category of service as mentioned in sub-rule (1) of rule 3. For example, under Architect service (a Category I service [Rule 3(1)(i)]), even if an Indian architect prepares a design sitting in India for a property located in U.K. and hands it over to the owner of such property having his business and residence in India, it would have to be presumed that service has been used outside India. Similarly, if an Indian event manager (a Category II service [Rule 3(1)(ii)]) arranges a seminar for an Indian company in U.K. the service has to be treated to have been used outside India because the place of performance is U.K. even though the benefit of such a seminar may flow back to the employees serving the company in India. For the services that fall under Category III [Rule 3(1)(iii)], the relevant factor is the location of the service receiver and not the place of performance. In this context, the phrase 'used outside India' is to be interpreted to mean that the benefit of the service should accrue outside India. Thus, for Category III services [Rule 3(1)(iii)], it is possible that export of service may take place even when all the relevant activities take place in India so long as the benefits of **these services accrue outside India**. In all the illustrations mentioned in the opening paragraph,

what is accruing outside India is the benefit in terms of promotion of business of a foreign company. Similar would be the treatment for other Category III [Rule 3(1)(iii)] services as well.

4. All pending cases may be disposed of accordingly. In case any difficulty is faced in implementing these instructions, the same may be brought to the notice of the undersigned. These instructions should be given wide publicity among trade and field officers.

5. Please acknowledge receipt.

6. Hindi version follows.

Yours faithfully,

(Gautam Bhattacharya)
Commissioner (Service Tax)
Tel: 23093027

(9)

Circular No. 109/03/2009

F. No. 137/186/2007 - CX. 4
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise and Customs)
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New Delhi, 23rd February, 2009

Subject: Service tax on movie theatres-reg

A query had been raised by the field formation as to whether the activity of screening of film supplied by a film distributor would fall under any of the taxable services and accordingly, whether the theatre owners are required to pay service tax on amount received by them from distributors. Divergent views have been expressed on this issue. One view is that the activity of screening of films supplied by a film distributor falls under the taxable service category of "renting of immovable property"; while an alternative view is that such activity falls under the category of 'Business Support Service'.

2 The matter has been examined. Normally a producer of a movie sells the rights of showing the movies in a region to a distributor. The distributor in turns enters into agreement with theater owners. This agreement can be of different types. Thus it is necessary to examine different types of arrangements under which a movie is screened, in order to determine whether any tax liability arises on the activities undertaken by a theater owner and a distributor. Typical types of arrangements normally entered into between a theater owner and a distributor are as under:-

2.1. Under one type of arrangement, the distributor leases out the hall for screening of the movie. Here, the theater owner gets a fixed rent from the distributor. The profit or loss from exhibiting the film is borne by the distributor. In such a case, the theatre owner provides the taxable service of 'Renting of immovable property for furtherance of business or commerce' and is accordingly liable to pay service tax.

2.2. Another type of arrangement is where the contract between the theatre owner and the distributor is on revenue sharing basis i.e. a fixed and pre-determined portion i.e. percentage of revenue earned from selling the tickets goes to the theater owner and the balance goes to the distributor. In this case, the two contracting parties act on principal-to-principal basis and one does not provide service to another. Hence, in such an arrangement the activities are not covered under service tax.

2.3. In yet another type of arrangement, the theater owner buys the print/CD of the film on payment of a fixed price and thereafter screens it in his theater. This transaction is also not subject to service tax being in the nature of sale of goods.

2.4. The arrangement most commonly entered into between a theater owner and a distributor is that the theater owner screens the movie for fixed number of days under a contract. The proceeds earned through sale of tickets go to the distributor but the theatre owner receives a fixed sum depending upon the number of days of screening. In this arrangement, the advertisement and display of posters etc. is done by the distributor. Under this arrangement, the fixed amount contracted is given to the theater owner by the distributor irrespective of the fact whether the movie runs well or not. However, there is no rental arrangement between the theater owner and the distributor as in the arrangement at paragraph 2.1 above. A view has been expressed that in this arrangement, the theater owner provides 'Business Support Service' to the distributor and hence is liable to pay service tax on the fixed amount received by the theater owner.

2.5. The matter has been examined. By definition 'Business Support Service' is a generic service of providing 'support to the business or commerce of the service receiver'. In other words the principal activity is to be undertaken by the client while assistance or support is provided by the taxable service provider. In the instant case the theatre owner screens/exhibits a movie that has been provided by the distributor. Such an exhibition is not a support or assistance activity but is an activity on its own accord. That being the case such an activity cannot fall under 'Business Support Service'.

3. In the light of above , it is clarified that screening of a movie is not a taxable service except where the distributor leases out the theater and the theater owner get a fixed rent. In such case, the service provided by the theater owner would be categorized as 'Renting of immovable property for furtherance of business or commerce' and the theater owner would be liable to pay tax on the rent received from the distributor. The facts of each case and the terms of contract must be examined before a view is taken.

4. All pending cases may be disposed of accordingly. In case any difficulty is faced in implementing these instructions, the same may be brought to the notice of the undersigned.

5. Please acknowledge receipt.

6. Hindi version follows

Yours faithfully,

(Gautam Bhattacharya)
Commissioner (Service Tax)

Circular No. 108/02/2009 – S

F. No. 137/12/2006-CX.4
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
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New Delhi, dated 29th January 2009

Subject: Imposition of service tax on Builders - regarding

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Construction of residential complex was brought under service tax w.e.f.01.06.2005. Doubts have arisen regarding the applicability of service tax in a case where developer / builder/promoter enters into an agreement with the ultimate owner for selling a dwelling unit in a residential complex at any stage of construction (or even prior to that) and who makes construction linked payment. The 'Construction of Complex' service has been defined under Section 65 (105)(zzzh) of the Finance Act as "*any service provided or to be provided to any person, by any other person, in relation to construction of a complex*". The 'Construction of Complex' includes construction of a new residential complex'. For this purpose, 'residential complex' means any complex of a building or buildings, having more than twelve residential units. A complex constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex intended for personal use as residence by such person has been excluded from the ambit of service tax.

2. A view has been expressed that once an agreement of sale is entered into with the buyer for a unit in a residential complex, he becomes the owner of the residential unit and subsequent activity of a builder for construction of residential unit is a service of 'construction of residential complex' to the customer and hence service tax would be applicable to it. A contrary view has been expressed arguing that where a buyer makes construction linked payment after entering into agreement to sell, the nature of transaction is not a service but that of a sale. Where a buyer enters into an agreement to get a fully constructed residential unit, the transaction of sale is completed only after complete construction of the residential unit. Till the completion of the construction activity, the property belongs to the builder or promoter and any service provided by him towards construction is in the nature of self service. It has also been argued that even if it is taken that service is provided to the customer, a single residential unit bought by the individual customer would not fall in the definition of 'residential complex' as defined for the purposes of levy of service tax and hence construction of it would not attract service tax.

3 The matter has been examined by the Board. Generally, the initial agreement between the promoters / builders / developers and the ultimate owner is in the nature of 'agreement to sell'. Such a case, as per the provisions of the Transfer of Property Act, does not by itself create any interest in or charge on such property. The property remains under the ownership of the seller (in the instant case, the promoters/builders/developers). It is only after the completion of the construction and full payment of the agreed sum that a sale deed is executed and only then the ownership of the property gets transferred to the ultimate owner. Therefore, any service provided by such seller in connection with the construction of residential complex till the execution of such sale deed would be in the nature of 'self-service' and consequently would not attract service tax. Further, if the ultimate owner enters into a contract for construction of a residential complex with a promoter / builder / developer, who himself provides service of design, planning and construction; and after such construction the ultimate owner receives such property for his personal use, then such activity would not be subjected to service tax, because this case would fall under the exclusion provided in the definition of 'residential complex'. However, in both these situations, if services of any person like contractor, designer or a similar service provider are received, then such a person would be liable to pay service tax.

4. All pending cases may be disposed of accordingly. Any decision by the Advance Ruling Authority in a specific case, which is contrary to the foregoing views, would have limited application to that case only. In case any difficulty is faced in implementing these instructions, the same may be brought to the notice of the undersigned.

(Gautam Bhattacharya)
Commissioner (Service Tax)
CBEC, New Delhi

(5)

Circular No. 107/01/2009 – ST

F.No137/23/2007-CX.4
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
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New Delhi, dated 28th January 2009

Subject: Levy of service tax on educational institutions- regarding

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Various educational institutions impart training and conduct courses in different fields. Many of these institutions issue certificates/degrees/diplomas to the candidates upon their successfully completing such courses. Apart from government run or aided institutes imparting education, training or coaching, there are several private run institutes or centers, which impart education/ training/ coaching, teach skills, help in preparing for competitive examinations or run classes on various subjects. Service tax is leviable on services provided by 'commercial training and coaching centers', since the year 2003. Over a period of time, certain doubts /disputes have arisen in the field in respect of the chargeability of service tax on the fees/ charges collected by such institutes and education centers. Some of such issues have been discussed below.

2. COMMERCIAL NATURE OF INSTITUTE

The first issue arises from the very name i.e. **Commercial** *training or coaching center'*. Many service providers argue that the word **'commercial'** appearing in the aforementioned phrase, suggests that to fall under this definition, the establishment or the institute must be **commercial (i.e. having profit motive)** in nature. It is argued that institutes which are run by charitable trusts or on no-profit basis would not fall within the phrase *commercial training or coaching center* and none of their activities would fall under the taxable service. This argument is clearly erroneous. As the phrase ***'commercial training or coaching center*** 'has been defined in a statute, there is no scope to add or delete words while interpreting the same. The definition *commercial training or coaching center* has no mention that such institute must have 'commercial' (i.e. profit making) intent or motive. Therefore, there is no reason to give a restricted meaning to the phrase. Secondly, service tax, unlike direct taxes, is chargeable on the gross amount received towards the service charges, irrespective of whether the venture is 'profit making, loss making or charity oriented' in its motive or its outcome. The word "Commercial" used in the phrase is with reference to the activity of training or coaching and not to the nature or activity of the institute providing the training or coaching. **Thus, services provided by all institutes or establishments, which fulfills the requirements of definition, are leviable to service tax.**

3. POST SCHOOL EDUCATION

3.1 Determination of taxability of education, other than school education is more complex and poses more questions. This is because, it covers an entire gamut of educational courses, such as formal higher education (i.e. bachelors masters, doctoral, post doctoral course), specialized education, vocational education, language (including foreign language) courses etc. These vary in terms of their content; purpose; scope; and the type of institutes or establishments, which impart them.

3.2 The system of statutory recognition of educational establishments or institutions in India is still in the state of evolution. As regards university education, University Grants Commission (UGC) is the apex regulating body. As per the objects of the University Grants Commission Act, 1956 (which established UGC) the said Act is 'to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission'.

As per the definition, in terms of Section 2(f) of the Act, a University means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act. . Therefore, all universities which are a creature of a State or Union Act fall within this definition of 'University'.

Further, Section 3 of the Act, explains the scope of a 'deemed university' and defines that the Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of section 2.

Also, UGC, with the approval of Central Government and under the Recognition of College in Terms of Regulations, 1974 framed under the UGC Act, can grant recognition to a college or institution run by a trust, a registered society or a body corporate or body incorporated under Central or state Act as an institution affiliated to or form as constituent member with a university, providing education up to a bachelors degree, masters degree or diploma of a duration of minimum one academic year

As per National Policy on Education, 1986, a scheme of autonomous colleges was promoted. In the autonomous colleges, whereas the degree continues to be awarded by the university, the name of college is also included. These colleges develop and submit new courses of study for approval by the university. These autonomous colleges are fully responsible for the conduct of examination.

As all these institutions or establishment are either created or recognized in terms of the power conferred by statutes, they would fall in the category of institutes/ establishments which issues diploma or certificate recognized by the law for the time being in force. As regards issuance of degree, section 22(1) of the said Act, provides for right of conferring or granting degrees only by a 'university' (as defined above) or a 'deemed university' (as defined above).

3.3 In addition, for recognition of professional courses, promotion of professional institutions and providing grants to various programmes, a number of 'professional councils (Such as All India Council for Technical Education AICTE, Medical Council of India-MCI, Indian Council for Agricultural Research-ICAR, Bar Council of India-BCI) have been created through independent Union Acts. Since, *inter alia* these councils are entrusted with ensuring norms and standards of the courses, physical and instructional facilities, undertaking assessment etc., they have also been provided with powers to make subordinate legislations (i.e. through notifications, circulars, rules) that the institutions or the establishments within their ambit must abide. In case of default, the councils have the power to derecognize an institution or establishment or a particular course being conducted by them, even if they are recognized as a university, a deemed university or an affiliated college. If an institution or establishment is derecognized, then such institution or establishment cannot be called to be an institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by the law for the time being in force. With the result, the courses conducted would fall under the ambit of 'commercial training or coaching centers' and would be charged to tax. It may however, be noted that for exercising such power, there should be a valid rule / notification / circular, prescribing the minimum requirements or standards as also the consequences of default.

3.4 All India Council for Technical Education-AICTE, was started in 1945 with the objectives stated above. Based on the recommendations of a 'National Working Group' (constituted by the Government of India) that AICTE be vested with the necessary statutory authority, it was given legislative support through an Act, called the AICTE Act, 1987. AICTE, using the powers conferred on it through 1987 Act, issued the 'AICTE (Grant of Approval for Starting New Technical Institutions, Introduction of Courses or Programme and Approval), Regulation 1994. Theses were amended in the years 1997 and 2000. Under Regulation 4 (Requirement of Grant of approval) of these Regulations, AICTE prescribed that,-

"After the commencement of these regulations,-

No new Technical Institution or University Technical Department shall be started; or

No course or programme shall be introduced by any Technical Institution, University including a Deemed University or University Department or Collage; or

No Technical Institution, University or Deemed University or University Department or College shall continue to admit students for Degree or Diploma course; or

No approved intake capacity of seats shall be increased or varied;

Except with the approval of the council.

The powers to issue regulations for approval are conferred on AICTE under Section 23 read with Section 10 of the AICTE Act.

3.5 In 2003, when service tax was first imposed on commercial training and coaching centers, the AICTE regulations required that for (a) starting or establishing new technical institutions; (b) introduction of additional programmes; or (c) increase in 'intake' in the existing programmes of AICTE approved institutions, a 'no objection certificate' from the concerned State government /UT would be required (notification F.37-3/Legal (iii)/2002 dated 10.09.2003). This notification does not prescribe any certification for existing institutes or establishments, which did not introduce any additional programme or did not increase in 'intake' in an existing programme. Thus, at that stage, not having a AICTE approval for such existing institution or establishment did not make them ineligible for being an institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by the law for the time being in force. Thus, if otherwise recognized or accepted, this sole reason of absence of AICTE approval did not cause such institutions or establishments to be within the service tax net. On 6.01.2005, vide notification No. F.37-3/Legal/2004, the previous AICTE Regulations was replaced by new Regulations. These Regulations expanded the scope and stated (Regulation No. 5) that no new technical institution of the Government, Government Aided or Private institution shall be introduced; no new courses or programs in technical education shall be introduced or no variation of intake shall be effected or **no existing technical institution of the Government, Government Aided or Private institution shall conduct any technical course** without prior approval of the council. The Regulation No. 7 of these Regulations also stated that the council shall, in every year publish the names of approved technical institutions, conducting course in technical education, the course and programs approved by the council and the number of seats permitted for each course etc. These Regulations were again superseded by another set of Regulations issued vide Not. No. F-37-3/Legal/2004 dated 28.11.2005, where the requirement of grant of approval by AICTE was further elaborated to specifically include universities, deemed universities and any admission authority etc. Vide notification No. F-2-1/2006 U.3 (A) dated 5.04.2006 the Central Government issued clarification regarding the role and the powers of AICTE and UGC with respect to 'Deemed to be University'. From the above it emerges that from the year 2005 onwards, a technical institution or establishment (which is otherwise recognized being a university, or affiliate college) not having AICTE approval cannot be called to be the one issuing any certificate or diploma or degree or any educational qualification recognized by the law for the time being in force and thus be within the ambit of service tax. However 'Deemed to be University' have been exempt from this requirement. As per the said notification for the institutes 'Deemed to be University', it is not a pre-requisite to obtain the approval of AICTE to start any programme in technical or management education leading to an award, including degrees in disciplines covered under the AICTE Act, 1987. However, such institutes are required to ensure the maintenance of the minimum standards prescribed by the AICTE for various courses under the jurisdiction of the said council.

3.6 Similar would be the situation in case of other Statutory Councils.

3.7 A related issue is, that since the concept of recognition of an educational qualification in India has been dynamic in nature (i.e. the degree/ diploma/ certificate an institute or establishment may be recognized by the law at one time and not recognized at other, due to change in legal provisions) the taxability of the courses conducted would depend on the legal status of such institute or establishment at the point of time when such service is provided (i.e. course is conducted). It cannot be said that once recognized an institute or establishment would remain so even in future or was so in the past.

3.8 Many a time private institutes conduct courses and issue diplomas or certificates in collaboration with certain foreign institutes universities. In many cases private enterprises conduct campus interviews of the students of such institutes and offer them jobs. Such certificates / diplomas may be accepted for higher education abroad. However, such a certificate / diploma cannot be called as the one 'recognized by the law for the time being in force' unless such a diploma/ certificate has been specifically recognized by the statutory authorities such as UGC, AICTE. Consequently, such institutes would not fall under the exempted category and would be subjected to tax.

4. VOCATIONAL TRAINING INSTITUTE

The vocational training institutes are exempted from service tax vide notification no. 24/2004-ST, dated 10.09.2004 (as amended). By definition, such institutes should provide training or coaching that imparts skill to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching. Disputes have arisen in respect of institutes that offer general course on improving communication skills, personality development, how to be effective in group discussions or personal interviews, general grooming and finishing etc. It is claimed that such training or coaching improves the job prospects of a candidate and therefore they are eligible for exemption as 'vocational training institutes. However, a careful reading of the definition shows that the exemption is available only to such institutes that impart training to enable the trainee to seek employment or self-employment. The courses referred to above do not satisfy this condition because on their own such courses do not prepare a candidate to take up employment or self-employment directly after such training or coaching. They only improve the chances of success for a candidate who already has the required skill. Therefore such institutes are not covered under the exemption.

5 CONCLUSION

All pending cases may be disposed of accordingly. In case any difficulty is faced in implementing these instructions, the same may be brought to the notice of the undersigned.

(Gautam Bhattacharya)
Commissioner (Service Tax)
CBEC, New Delhi