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OFFICE OF THE SUPERINTENDENT
CENTRAL EXCISE RANGE-XXI, DIVISION - III
117/7, SARVODAYA NAGAR, KANPUR - 208005 (U.P.)

Form ST-2

[Certificate of registration under Section 69 of the Finance Act, 1994 (32 of 1994)]

Shri/Ms. **INDIAN INSTITUTE OF TECHNOLOGY**, , KALYANPUR, , , IIT KANPUR, KANPUR(NAGAR) having undertaken to comply with the conditions prescribed in Chapter V of the Finance Act, 1994 read with the Service Tax Rules, 1994, and any orders issued thereunder is hereby certified to have been registered with the Central Excise Department. The Service Tax Code and other details are mentioned hereunder.

1. PAN **AAAJI0169A**
2. Service Tax Code (Registration Number) **AAAJI0169AST001**
3. Taxable Services **SCIENTIFIC AND TECHNICAL CONSULTANCY**

4. Address of Business Premises

(i) Name of Premises / Building
(ii) Flat / Door / Block No.
(iii) Road / Street / Lane **KALYANPUR**
(iv) Village / Area / Lane
(v) Block / Taluk /sub-Division/
Town
(vi) Post Office **IIT KANPUR**
(vii) City / District **KANPUR(NAGAR)**
(viii) State / Union Territory **UTTAR PRADESH**
(ix) PIN Code **208016**
(x) e-mail Address
5. Premises Code **180806/1774**

Telephone No. 597678

6. This certificate is issued incorporating the changes intimated by the applicant and the previous certificate of registration bearing Registration Number STC/S2TC/KNP-DIV-I/ issued on 16.08.2001 stand cancelled. IIT/3/2001

Note :

1. In case the registrant starts providing any other taxable service (other than those mentioned above), he shall intimate the department.
2. In case the registrant starts billing from other premises (other than those mentioned above), he shall intimate the department.
3. These intimations and any other information which registrant wishes to bring to the notice of the department can be submitted on-line by the registrant after logging on to web-site.
4. This registration certificate is not transferable.
5. List of Accounting codes is enclosed. These may invariable be furnished in the challan at the time of making payment of service tax.

Place : KANPUR

Date : 31/05/2007

CC : (by email) To

(1) The Pay and Accounts-Officer, KANPUR

Name & Signature of the Central Excise

अधीक्षक
केन्द्रीय उत्पाद शुल्क विभाग, XXI
Central Excise
मण्डल-तृतीय, कानपुर
Division-III Kanpur

11/7/07

87. Scientific & Technical Consultancy Services

1 Provisions at a Glance

<i>Charge created vide</i>	Notification 4/2001-ST, dated 9-7-2001 w.e.f. 16-7-2001				
<i>Service defined u/s 65(92)¹</i>	"scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, ² [to any person], in one or more disciplines of science or technology;				
<i>Taxable Service defined u/s 65(105)(za)</i>	Taxable service means any service provided or to be provided ³ [to any person], by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;				
<i>Accounting Codes</i>	Tax Collection		00440125		
	Interest & Penalties		00440126		
	Education Cess		00440298		
	Secondary and Higher Education Cess		00440426		
<i>Rates of Service Tax</i>	Period	Tax Rate	Education Cess	SHEC	Total
	16-07-2001 to 13-05-2003	5%	--	--	5%
	14-05-2003 to 09-09-2004	8%	--	--	8%
	10-09-2004 to 17-04-2006	10%	2%	--	10.20%
	18-04-2006 to 10-05-2007	12%	2%	--	12.24%
	11-05-2007 onwards	12%	2%	1%	12.36%
	11-05-2007 to 23-02-2009	12%	2%	1%	12.36%
	24-02-2009 onwards	10%	2%	1%	10.30%
<i>See Also</i>	Consulting Engineers Services Technical Testing & Analysis Services Technical Inspection & Certification Services Management Consultancy Services				

2 Analysis of the Definition

Section 65(105)(za) of the Finance Act, 1994 defines the term taxable service for scientific and technical consultancy services as under:

¹ Inserted by the Finance Act, 2001, w.e.f. 16-7-2001.

² Substituted for "to a client" by the Finance Act, 2008, w.e.f. 16-5-2008.

³ Substituted for "to a client" by the Finance Act, 2008, w.e.f. 16-5-2008.

"Taxable service means any service provided or to be provided to any person by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy"

Thus, for any transaction to be liable for tax, it should be a taxable service as defined above. From the definition, the essential requirements for taxability can be understood as under:

1. The transaction should amount to a service,
2. The service should be provided or to be provided to any person by a scientist or a technocrat, or any science or technology institution or organization,
3. The service should be in relation to scientific or technical consultancy.

2.1 The transaction should amount to a service

The foremost requirement for taxing a transaction for the purpose of levy of service tax is that the transaction should possess an essential character of "service". Unluckily, the term "service" is not defined either under the Service Tax Law or under any other law. In the absence of a specific definition and also in view of specific exemption provided by Notification 12/2003, one can conclude that any transaction that amounts to a sale of goods cannot be treated as a service liable for service tax.¹ Therefore, in case a Government Department undertakes some consultancy as a part of sovereign function, there cannot be any service tax²

2.2 The transaction should be between two parties

At the outset, the essential character of taxability is a service transaction which implies duality of entities. Thus, if an entity renders service to itself (one branch providing service to another branch or department), there can be no incidence of service tax³. Similarly, in situations where the mutuality principle can be squarely applicable, there can be no incidence of service tax⁴.

Being on a selective approach, the law also prescribes for the exact definitions of the service provider and the service recipient. Such definitions have undergone change from time to time. Based on the language used, there may be a further reduction in the scope of coverage of the impugned service.

The following table summarises the date-wise position of the definitions of service provider and service recipient:

1 For a detailed analysis of tax implications of works contracts, embedded contracts & composite contracts, please refer Chapters 5 & 6 in Part I of this Book.

2 *Dy Director of Mines & Geological Department v Commissioner of Central Excise* 2007 (7) STR 285 (Bang Trib).

3 *Precot Mills Limited v Commissioner of Central Excise* 2006 (2) STR 495 (Bangalore Trib).

4 *Saturday Club Limited v Assistant Commissioner* 180 ELT 457 (Cal HC).

Period	Service Provider	Service Recipient
Upto 15.05.2008	Scientist or Technocrat or science or technology institution or organisation	Client
From 16.05.2008	Scientist or Technocrat or science or technology institution or organisation	Any Person

The current position of applicability of service tax vis-à-vis the definitions of service provider and service recipient are discussed below. For principles highlighting the historic position, please refer the general commentary laid out in Part I.

The scope of the service provider is very widely defined to include a scientist, a technocrat or any science institution or a technology institution. There is no requirement that the service provider should be a commercial concern and therefore, even if educational institutions like IIT provide such consultancy services, they would also be covered within the service tax net.

In common parlance, diagnostic/pathological laboratories are not known as scientists or technocrats or science or technology institutions or organizations. Hence, they would not be liable to Service Tax. As already explained, even public funded research/non-commercial organizations like Indian Institute of Technology would come under the purview of Service Tax as there is no requirement for the service provider to be a commercial concern.

However, in case the services are provided by a manufacturer, the same cannot be taxed under this category as a manufacturer is not a scientist¹

2.3 The service should be in relation to scientific or technical consultancy

The term "scientific or technical consultancy" is defined under section 65(92) of the Finance Act, 1994 as under:

"Scientific or technical consultancy" means any advice, consultancy or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology.

The taxable services should be understood in the context of its commonly understood meaning and scope. For instance, it would cover consultation, advice or technical assistance provided by a scientist or a technocrat or a science or technology institution on any issue relating to any branch of science and technology. Such consultation may be in the nature of an expert opinion/advice in regard to scientific or technical feasibility or any other scientific or technical aspect of a project, process or design, recommending an apt technology, suggestion for improvement in existing technology or process, providing consultation on any technical problem or about new technology, etc.

¹ *Mita Harig India Limited v Commissioner of Central Excise* 2008 (9) STR 508 (Del Trib).

In view of the various settled decisions in the context of consulting engineers, it can be safely concluded that this category of taxable service also covers only the consultative aspects and not the executionary aspects of the service. For example, where the appellant was merely carrying out chemical analysis and furnishing test results for pesticides, such an activity would not fall under the category of 'scientific and technical consultancy' so as to attract levy of service tax.¹

Similarly, royalties cannot be taxed under "Scientific and Technical Consultancy Services for periods prior to 10.09.2004²

In a situation where the transaction is for sale of technology and no rights are retained, there can be no liability towards service tax³

3 Notifications and Circulars

There are no service specific notifications concerned with this category of taxable service.

There are no service specific clarifications/circulars which are in force at the current moment. All earlier clarifications/circulars have been withdrawn

4 Situs of Taxable Services

In view of the provisions of section 64 (basic situs), all services provided within India (excluding the state of Jammu & Kashmir) are liable for payment of service tax. The liability to pay service tax applies irrespective of the residential status of the service provider or the service recipient

In view of the provisions of section 66A (extended situs), services provided by a foreign service provider and received by an Indian service recipient are deemed to be taxable services. The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 govern the situs of transaction in such cases. Accordingly, in case of services under review, the services are treated as received in India if the service recipient is located in India⁴

5 Valuation of Taxable Service

The value of the taxable service shall be the gross amount charged to the client. Thus, no deduction is available for various expenses incurred while providing the taxable service. The Service Tax (Determination of Value) Rules, 2006 have been prescribed with effect from 19.04.2006. These Rules very clearly enunciate situations in which an assessee may claim the exclusion of expense recoveries on the grounds of reimbursement of expenses. Primarily, the expenses will have to be incurred by the service provider as an agent of the service recipient. The service provider will also have to satisfy eight conditions specified in Rule 5(2). For a detailed discussion, refer Part I.

¹ *Rallis India Ltd v CST* (2006) 5 STT 385 (Bang-CESTAT).

² *Secure Meters Limited v Commissioner of Central Excise* 2008 (9) STR 571 (Del Trib).

³ *Matrix Laboratories Limited v Commissioner of Central Excise* 2008 (9) STR 15 (Bang Trib).
Rule 3(iii) of the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.