INTRODUCTION

Introduction

A strong tax system is fundamental to the development of a nation’s economy. Taxation is, significantly more than revenue mobilization. The use of a unique taxpayer identity number, extensive use of tax deduction at source, banking and other transactions, electronic payment of taxes, electronic filing of returns have strengthened both voluntary compliance as well as the enforcement mechanism. In India, the tradition of taxation has been in force in one form or another from ancient times.

The financial obligations of the Raj increased, and the need to revamp the tax system was felt. In 1919, with the introduction of the federal structure through ‘Diarchy’, taxes on income and some other taxes were made a central subject. In 1922, a paradigm shift occurred with the enactment of a new Income Tax Act that led to the setting up of a comprehensive taxation system with its own administrative machinery. In 1924, a Central Board of Revenue was created to administer central taxes.\(^1\)

The attainment of Independence marked another paradigm shift for taxation. The objective of collecting revenues was no longer the preservation or advancement of British interests. After a long period, Indians began to pay taxes for their own welfare, thus redefining the role of taxation in the country.
Taxation has been an important component of the central government’s policy on macroeconomic management, especially economic growth and its distribution. The tax policy has also been reviewed and guided at different stages by the reports of expert committees on tax reform instituted by the Government of India.

A robust and efficient taxation system is the foundation of a successful economy and a pre-requisite for sustainable growth. But despite the benefits that an efficient and well-managed taxation system brings, it is rarely perceived as a constructive phenomenon. The language associated with tax has become highly negative. Tax is presented as a ‘burden’ from which, we all need ‘relief’. Tax increases have never been popular, and all Governments have had difficulty in formulating an effective tax policy. The perception of Thomas Aquinas from the thirteenth century that taxes are ‘a form of legal blunder’ has been so persistent that no Government has been able to change it entirely. Despite all the advantages that taxation brings to society, it has been difficult for any Government to dislodge the perception that it is either set too high, is being spent ineffectively, or that it is being directed towards the wrong outcomes.

The income from the service sector excluding public administration and defence constitutes more than a third of total GDP. The total indirect taxes collected from the sector by central and state governments together is
only one per cent of GDP or 6.6 per cent of total tax revenue. Interestingly, revenue from taxes on services is collected more by the state than by the centre. It is seen that of the total indirect tax revenue from services, almost 80 to 85 per cent is collected at the state level and the share of Central Government is only about 15-20 per cent. The principal reason for taxing services is the imperative need to arrest the declining trend in the tax ratio.

Taxation of services and its integration with taxes on goods is also necessary from the viewpoint of fair distribution of the tax burden across sectors. A scientific approach to taxation of services should be to have the widest possible coverage. A proper value added tax is a tax on goods and services and from the point of view of having a broad base and administrative convenience, it is important to extend the coverage of the tax to all goods and services. In order to evolve a scientific tax system, it is important to give up the selective approach to taxing services. The general approach must be preferred over the approach of taxing services selectively for two important reasons. Experience has shown that in the selective approach each service has to be defined and in spite of this, there can be several disputes and litigations. Administrative considerations also necessitate exemption of services in the unorganised sector and small service providers from the purview of taxation. This is necessary to avoid harassment to very small service providers. Exclusion of such segments from the scope of the tax without compromising on the fundamental
approach of expanding the tax base is also important. Exclusion of small and unorganised service providers is important from the viewpoint of administrative feasibility and convenience.\(^2\)

Services now account for the largest share in the country’s GDP. This sector contributes nearly 64.8 per cent of the National Income, whereas the primary and secondary sectors contribute only 35.2 per cent of the GDP.\(^3\) The growth of the service sector in the Indian economy has been spectacular in the last 10 years. In advanced countries, GDP growth has been propelled initially by manufacturing sector whereas in India, it is the service sector that has led to growth. The contribution of service sector to the government exchequer has, however, been far from commensurate. Apart from the need to contribute more to the exchequer, the case for bringing services under taxation net is important from considerations of efficiency and equity. Efficiency in resource allocation suffers when certain sectors or activities remain untaxed while the burden of taxation falls on other sectors as resources are drawn away from the taxed sectors on tax considerations. In other words, discriminatory taxation of goods and services is distortionary. Equity also suffers when services go untaxed because services are consumed more by the rich. The Tax Reforms Committee of 1991 headed by Shri. Chelliah while recommending the tax on services had contemplated the levy of the service tax as a part of VAT at the central level.
While recommending comprehensive taxation of services, the Rao Committee had envisaged a scientific scheme of dual VAT whereby the tax is levied both by the centre and the states, both going down to the retail and the taxes retained by the respective authorities as they accrue to them. This is the system operating in Canada at present in some of the provinces. This will involve major constitutional amendments. One alternative would be to allow the states to levy tax on services which are ancillary or incidental to production or manufacture of goods administered by the Centre. Tax on services which have interstate ramification (like transport and telecommunications) would have to be administered exclusively by the centre. Service Tax is administered by the Central Excise Commissionerates, working under the Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India. Directorate of Service Tax at Mumbai has been established to oversee the activities at the field level for technical and policy level co-ordination. Besides, Service Tax cells are in existence in Central Excise Commissionerates.

The burden of service tax is borne by the persons availing the services and not by the person rendering the services. No separate accounts have been prescribed for the purposes of service tax. The Central Government is empowered to grant exemption from service tax in appropriate cases by issuing specific notifications. The person responsible
for paying service tax is the service provider. However, in the case of goods transport operator and clearing and forwarding agent, the liability of paying taxes was shifted to the persons availing or receiving the services. The Service Tax on value of taxable services received during the calendar month should be paid by 25th of next month by corporate, and by 25th of the month following the quarter by individual, proprietary firms or partnership firms. The liability is to pay service tax on taxable services received. Thus, service tax is not payable on amounts charged in the bills/invoice. Tax payable will be assessed by Central Excise Officer. The Central Excise Officer can issue a notice on theassesees and ask them to submit such accounts and documents as necessary. After considering the accounts, documents and other evidences, he shall send the order in writing to assessees. In case of failure to make returns by assessees and when value of taxable services have escaped assessment, the Assistant Commissioner of Central Excise will have the power to make assessment by following the principle of natural justice.5

Services cover a very heterogeneous basket in terms like business services to those operating through non-market channels (such as government administration, religious and community services). Factor intensities vary from those which are capital intensive (real estate and housing) to those which are capital light (restaurants). The differences in their character range from those aimed directly at final consumption to those serving intermediary consumption (banking, trade). The mode of organising
productive activity ranges from tiny roadside enterprise to co-operatives in terms of scale of operation, from public ownership (railways in India) to those operating mainly under private ownership (road transportation). Recent technological advances in information technology and audio visual communications have added further dimensions to the inherent heterogeneity in terms of changing quality, rising productivity and increasingly complex modalities of exchange.\textsuperscript{6}

Evolving a systematic and co-ordinated approach to taxing services along with goods is not desirable, but necessary. Service sector comprises the largest and the fastest growing sources of income and exclusion of this sector from the purview of indirect taxation renders the tax base narrow and makes it difficult to enhance tax-GDP ratio. Further, given that services enter into the production of goods and vice versa, developing a non-cascading consumption tax system is possible only when services are brought within the purview of taxation. There are also issues of neutrality of taxation between goods and services. Taxation of services is necessary also for reasons of relieving taxes on exports. Orderly and co-ordinated system of consumption taxes in the country can be evolved only when the prevailing excise duties levied by the central government and sales taxes levied by the states are transformed into value added taxes on both goods and services.
The principal reason for taxing services is the imperative need to arrest the declining trend in the tax–GDP ratio. Even at the state level, analysis shows that stagnancy in revenues has been caused mainly on account of decline in the revenue productivity of the sales taxes. Exclusion of the services from the tax base provides easy avenue for evasion and avoidance of the tax. The manufactures in collusion with traders can artificially reduce the sale value by inflating the value of post manufacturing services. The most important factor warranting the levy of taxation on services is the need to evolve a co-ordinated system of domestic trade taxes both at central and state levels. Services enter into the production of goods and vice versa. In order to relieve taxes on inputs it is important to levy the tax on both goods and services. Over the years, by extending input credit schemes, union excise duty has almost been transformed into manufacturing stage VAT. However, services have remained outside the VAT system and therefore it has not been possible to provide credit for all input taxes. Therefore, it is necessary to evolve a suitable mechanism to provide input tax relief on the taxes paid on services to evolve a coordinated system of taxation on goods and services. Taxation of services and its integration with taxes on goods is also necessary from the view point of fair distribution of the tax burden across sectors.

The state governments do not have general power to tax services along with goods, but since a number of specified services are assigned to
them, they have imposed multiple levels of taxes. An outcome of this has been haphazard evolution of the state tax systems. To include more services within the purview of taxation, states have stretched their powers to tax luxuries to include services such as hotels and restaurants. When finally the taxes on goods and services are merged from a VAT, the multiple taxes on services levied at present such as entertainment tax, electricity duty, luxury taxes and passengers and goods taxes should become a part of the value added tax system so that the tax system remains simple. This will also help to relieve input taxes and pave the way for the orderly evolution of the tax system in the country. Thus, from the viewpoint of enhancing the revenue productivity as well as evolving an efficient and least distorting tax system, integrating the taxes on services with those of goods is essential. In virtually every country in the world where value added tax is levied with the important exception of China and Malaysia, the value added tax is extended to both goods and services.

A scientific approach to taxation of services should be to have the widest possible coverage. A proper value added tax is a tax on Goods & Services and from the point of view of having a broad base and administrative convenience, it is important to extend the coverage of the tax to all Goods & Services. In order to evolve a scientific tax system, it is important to give up the selective approach to taxing services. Both the centre and the states will have to exercise concurrent powers to levy taxation
of services, and they should extend the tax to all services with a small and clearly defined exemption list. The exemption list will have to be carefully chosen by giving emphasis to administrative feasibility, developmental and distributional considerations. Thus, basic administrative services, meritorious services, services with significant externalities and those essential for physical and human development will have to be identified for exclusion and exemption.

The general approach must be preferred over the approach of taxing services selectively for two important reasons. Experience has shown that in the selective approach each service has to be defined and in spite of this there can be several disputes and litigation. Administrative considerations also necessitate exemption of services in the unorganised sector and small service providers from the purview of taxation. This is necessary to avoid harassment to very small service providers. Exclusion of such segments from the scope of the tax without compromising on the fundamental approach of expanding the tax base is also important. Exclusion of small and unorganised service providers is important from the view point of administrative feasibility and convenience. One way to exclude the unorganised sector from the purview of tax is to prescribe a threshold on turn over. Of course, prescribing threshold to exempt small service providers can lead to tax avoidance by splitting around the threshold value. However, in order to keep the administration manageable, it would be prudent to
exempt unorganised sector and small service providers altogether from the
tax net by prescribing the threshold exemption limits.

In the case of the Central Government, taxation of services should be
eventually merged with the Cenvat on goods. This implies that to begin with
the tax should be extended to all the services with a small exemption list.
The service tax would be integrated with the Cenvat at the centre to form
manufacturing stage VAT can be calibrated. Until such time as service tax is
integrated with the Cenvat, the tax rate could continue at 5 per cent. The lack
of power to levy tax on services has also given rise to artificial split between
commodity and service components merely to avoid and evade sales taxes. 7

The Government of India had introduced the levy of “service tax”,
i.e., tax on services, for the first time, in the year 1994, borrowing the
concept from developed countries. The basic purpose of this levy has been
to increase revenue, treating the act(s) of rendering service, as an additional
source of revenue. Depending upon its own socio-economic compulsions,
each country evolves its system of taxation adapting either a
“comprehensive approach” or “selective approach”. Under the concept of
“comprehensive approach”, all services are taxable unless any of the
services is specifically excluded.

Under the system of “selective approach”, only specified services are
taxable. India followed the system of “selective approach” till 30.06.2012
and from 01.07.2012 the concept of “comprehensive approach” is introduced wherein all services are taxable unless any of the services is specifically excluded.

If an activity meets the characteristics of a “service” it is taxable unless specified in the Negative list or otherwise exempted by an exemption Notification. Under Section 65B (44) of the Finance Act, 2012 “service” means any

(a) activity
(b) carried out by a person for another
(c) for consideration and
(d) includes a declared service under Section 66 E

Activity

In terms of the common understanding of the word, ‘activity’ would include an act or a work done or an operation carried out or provision of a facility etc. It is a term with very wide connotation. Therefore, it would cover wide range of transactions within its ambit. Now, therefore, even the promise made for a consideration to refrain from doing something shall also be covered within the term “activity”.

Carried out by a person for another

Activities between two persons shall be covered under service tax. Therefore, if a person is doing something for himself it will not be covered
under service tax. For instance, if a professional while doing his practices also maintain books of accounts, then such activities of maintaining books of accounts shall not be covered within the expression ‘carried out by a person for another’.

**Consideration**

The word consideration has not been defined in the Act. Therefore, it has to be understood in the context of its commonly understood meaning and scope. However, the term ‘consideration’ bearing with the value of taxable service on which service tax is payable.

**Declared Service**

The Parliament has declared certain activities as service, as there could be confusion whether such activities would be considered as service or not. Few such services are renting of immovable property, construction of a complex, building, civil structure or a part thereof, transfer of goods by way of hiring, leasing etc.

The Goods and Services Tax (GST) will mark a very significant improvement over the existing system, as it will integrate the tax base across the value chain of supply of both goods and services in the economy. Not only will this enable the taxation of each stage of the value chain at a uniform rate, it will also enable the seamless pass through of input tax credit so that the incidence is effectively borne at the stage of final consumption of
goods and services. It is well accepted that such a tax system minimizes distortions in economic choice.

The Empowered Committee of State Finance Ministers released its First Discussion Paper on the Goods and Services Tax in November 2009. This spelt out the features of the proposed GST and has formed the basis for discussion between the Centre and the States. The paper envisages a destination – based, dual GST with the Centre and the States simultaneously levying it on a common base. This tax will replace several indirect taxes currently levied by the Centre and the States, including Central Excise Duty, Service Tax, State VAT and Central Sales Tax. An integrated GST (IGST) would be levied on the inter-state supply of goods and services. This tax will be collected by the Centre so that the credit chain is not disrupted. Accounts will be settled periodically between the Centre and the States to ensure that the State GST component is transferred to the state where the goods or services are eventually consumed.

Based on the status of discussions so far, the Centre and the States have jointly prepared a draft GST Constitutional Amendment Bill for this purpose. This bill was introduced in the Lok Sabha in March 2011. It was passed by a two-third majority in both Houses of Parliament and subsequently ratified by the state legislatures. It is only after the enactment
of this bill that suitable legislation for the actual levy of GST will be introduced either in Parliament or in the state legislatures.\textsuperscript{8}

The main trade-off here is between tax harmonisation towards uniformity and fiscal autonomy of the states. The Thirteenth Finance Commission’s recommendations however represent a rather centralised model for India. The model, and its implementation, is in favour of a complete look into uniformity and centralisation.\textsuperscript{9}

Cenvat credit can be availed of the service tax amount paid by the service provider as well as by the service recipient in cash, directly into the Government’s treasury under the partial Reverse Charge Mechanisms, provided the same constitutes input service. However, service receiver cannot pay service tax by utilising Cenvat credit, where it is stated that Cenvat credit cannot be used for payment of service tax in respect of services where person liable to pay service tax is the service recipient.

A proviso has been added with effect from July 1, 2012 that both, the service provider and service receiver will be considered ‘person liable to pay tax’ on the notified taxable services.

In the case of import of services, there was justification for taxing service recipient, because service providers were not easily accessible for realisation of tax from them.
With or without reverse charge, the burden of tax is borne by service recipient. Reverse charge doesn’t increase tax burden of service recipient; it merely requires registration and other procedure to be followed by service recipient.\textsuperscript{10}

As per the advance estimates released by the Central Statistics Office, the service sector is expected to realise a growth rate of 9.4 per cent in 2011-12 over and above 9.3 per cent growth achieved in 2010-11. The success story of service tax, imposed on the recommendations of the Dr. Raja Chelliah Committee constituted for tax reforms in 1994-95, has been remarkable, considering that its collections grew exponentially from Rs 407 crore in the year 1994-95 to Rs 1,32,518 crore in the year 2012-13. The basic objective of service tax is broadening the tax base, augmentation of revenue and larger participation of citizens in the economic development of the nation.\textsuperscript{11}

The service sector contributes around 64.8 per cent to the country’s GDP. However, its contribution to the total indirect tax collection is only around 10 per cent. The proposed Goods and Services Tax will allow States also to tax services, a power hitherto vested only with the Centre.

In recent times, among indirect taxes, service tax has shown the highest rate of growth. In the current budget (2014-15) the Service Tax base
has been widened by withdrawing the exemption and pruning the negative list so as to mop up additional revenue of Rs 7525 crores. In the current fiscal, Government envisages to collect about Rs 2.16 lakhs crore from taxes on services, up about 31 per cent from Rs 1.65 lakhs crore in 2013-14.

In the current budget, the Finance Minister has announced certain changes with reference to service tax payments. Overall objective is to prepare the indirect tax regime for a smooth transition to Goods and Service Tax. So changes have been kept minimal at this stage. The twin objectives in this sector of indirect taxes are to widen the tax base and enhance compliance.

To broaden the tax base in Service Tax, it is necessary to prune the negative list and exemptions to the extent possible. Accordingly, the negative list has been reviewed and service tax leviable currently, on sale or space or time for advertisement in broadcast media, is being extended to cover such sales on other segments like online and mobile advertising. Sale of space for advertisements in print media however would remain excluded from service tax. Similarly, tax is being proposed on the service provided by radio-taxis to place them on par with rent-a-cab service. These new levies will come into effect from a date to be notified after the passing of the Finance Bill.
In furtherance of the effort to broaden the tax base, certain exemptions are being withdrawn, including those extended to services by air-conditioned contract carriages and technical testing of newly developed drugs on human participants.

To encourage growth in the transport of goods through coastal vessels, the tax incidence is being reduced. In response to the request of the tourism sector, services provided by Indian tour operators to foreign tourists in relation to a tour wholly conducted outside India is being taken out of the tax net.12

**Legislative History and Widening of Service Tax**

Initially, service Tax was levied only on three services by the Finance Act, 1994. The Finance Act, 1996 extended the levy to three more services. Twelve more services were brought under the Service Tax net by the Finance Act, 1997 and its scope was further enlarged by the Finance Act, 1998 when twelve more services were brought under the Service Tax net. Three services were exempted from Service Tax by the Finance Act, 1998 and one more service by the Finance Act, 2000. Its scope was further widened by the Finance Act, 2001 when Service Tax was extended to include 15 more services. The Finance Act, 2002 further extended Service Tax on ten more services. The Finance Act, 2003 brought eight new services within the ambit of Service Tax. Further, the Finance Act, 2004 brought 13
new services under Service Tax net which includes re-introduction of Service Tax on three services and risk cover in life insurance under the life insurance service is also brought under service tax net.

The Finance Act, 2005 brought nine new services under the Service Tax net. The Finance Act, 2006 brought 15 new services under the Service Tax net. Seven more services have been brought under Service Tax net, by Finance Act, 2007 and six telecom related services were omitted and merged into one new category of taxable service. Further, the Finance Act, 2008 with effect from 16.05.2008, introduced six new services, with in the coverage of Service Tax net. The Finance Act, 2009 with effect from 01.09.2009 has introduced three new services. Further, the Finance Act, 2010 with effect from 01.07.2010 has introduced eight new services. Further, the Finance Act, 2011 introduced two new services. Thus, the Service Tax was levied on a total of 115 services. Year-wise details of services brought under Service Tax net are given in Table No 1.1:
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Introduction Year</th>
<th>No. of Taxable Services Added</th>
<th>No. of Taxable Services Exempted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1994</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>1996</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>3</td>
<td>1997</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td>4</td>
<td>1998</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>2000</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>2001</td>
<td>15</td>
<td>-</td>
</tr>
<tr>
<td>7</td>
<td>2002</td>
<td>10</td>
<td>-</td>
</tr>
<tr>
<td>8</td>
<td>2003</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>9</td>
<td>2004</td>
<td>13</td>
<td>-</td>
</tr>
<tr>
<td>10</td>
<td>2005</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>11</td>
<td>2006</td>
<td>15</td>
<td>-</td>
</tr>
<tr>
<td>12</td>
<td>2007</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>13</td>
<td>2008</td>
<td>6</td>
<td>-</td>
</tr>
<tr>
<td>14</td>
<td>2009</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>15</td>
<td>2010</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>16</td>
<td>2011</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>Services (115)</td>
<td>126</td>
<td>11</td>
</tr>
</tbody>
</table>

**Source**: www.servicetax.gov.in/

**Rate of Tax**

Service Tax initially started with effect from 01.07.1994 on a uniform basis, at the rate of five per cent ad valorem for all taxable services. The rate of service tax\textsuperscript{14} was enhanced by the Finance Act, 2003, with effect from...
14.05.2003, from five per cent to eight per cent ad valorem. The Finance Act, 2004, enhanced the rate of service tax, with effect from 10-09-2004 from eight per cent to 10 per cent ad valorem and further it also levied Education Cess of two per cent on the service tax payable. The Finance Act, 2006 with effect from 18.04.2006, further enhanced the service tax from 10 per cent to 12 per cent. The Finance Act, 2007, with effect from 12.05.2007, levied Higher Education Cess of one per cent on the service tax payable. With effect from 01.04.2012, the rate of service tax has become 12 per cent ad valorem. Changes initiated in the service tax levied from time to time is furnished in Table No 1.2.

Table 1.2
Rate of Service Taxes

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Period</th>
<th>S.T Rates (per cent)</th>
<th>Education Cess (per cent)</th>
<th>Higher Education Cess (per cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>01.07.1994 to 13.05.2003</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2</td>
<td>14.05.2003 to 09.09.2004</td>
<td>8</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3</td>
<td>10.09.2004 to 17.04.2006</td>
<td>10</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>4</td>
<td>18.04.2006 to 11.05.2007</td>
<td>12</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>5</td>
<td>12.05.2007 to 23.02.2009</td>
<td>12</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>24.02.2009 to 31.03.2012</td>
<td>10</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>01.04.2012 onwards</td>
<td>12</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: www.servicetax.gov.in/
Negative List of Services

The services specified in the negative list go out of the ambit of chargeability of service tax. Section 66 D of the Finance Act, 1994, has specified the list of services consisting of 17 heads of services which is termed as ‘Negative List’. In a comprehensive tax regime, this ‘Negative List’ takes a pivotal position where every activity not covered under this list becomes taxable. Section 66 D of the Finance Act, 1994, contains a list of services with 17 entries on which service tax is not leviable. Services coming under Negative List have been provided in Appendix I

Exemptions Available in Service Tax

The need for exemptions is not obviated with the introduction of negative list. Though the services mentioned under 17 heads in the negative list enumerated in Section 66 D of the Finance Act, 1994, is exempted, it is necessary to exempt the services not covered under the negative list. For ease of reference and simplicity, most of the exemptions are covered under one single mega exemption notification 25 / 2012 – ST dated 20.06.2012. However, some specific exemptions are also provided by various notifications. Such exemption notifications are presented in Table No. 1.3
Table 1.3
Specific Exemptions from Service Tax

<table>
<thead>
<tr>
<th>Exemption</th>
<th>Notification No. &amp; Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mega exemption covering 39 entries</td>
<td>25/2012-ST, dated 20.06.2012</td>
</tr>
<tr>
<td>Amount paid as research &amp; development Cess on import of Technology</td>
<td>14/2012-ST, dated 17.03.2012</td>
</tr>
<tr>
<td>Exemption to Foreign Diplomatic Mission in India</td>
<td>27/2012-ST, dated 20.06.2012</td>
</tr>
<tr>
<td>Property Tax paid on Immovable Property</td>
<td>29/2012-ST, dated 20.06.2012</td>
</tr>
<tr>
<td>Service provided in relation to transport of goods to exporter of goods</td>
<td>31/2012-ST, dated 20.06.2012</td>
</tr>
<tr>
<td>Small Scale Service provider (Threshold Exemption)</td>
<td>33/2012-ST, dated 20.06.2012</td>
</tr>
<tr>
<td>Service provided to SEZ Unit or developer</td>
<td>40/2012-ST, dated 20.06.2012</td>
</tr>
</tbody>
</table>

**Source:** Rohini Aggarawal, Service Tax Law and Practice, Vol. 1. pp C.65-C.66

**Mega Exemption**

Besides negative list and specific exemption, certain categories of services are exempted from the purview of service tax under mega exemption.\(^{16}\) Services coming under mega exemption list have been furnished in Appendix II

**Reverse Charge in Service Tax**

Section 68 of the Finance Act, 1994 is the principal section which fixes responsibility to pay service tax. Sub-section (1) of Section 68 provides
that service provider would be the person liable to pay service tax. Sub-
section (2) of Section 68 provides overriding powers to the Central
Government to prescribe any person who may be liable to pay service tax.
Accordingly, whenever the Central Government prescribes any person other
than the service provider as a person liable to pay service tax, a reverse
charge situation is created. The reverse charge mechanism was first
introduced from 01.01.2005 for the service “transport of goods by road”.
Service tax for the transportation of goods by road service is paid by the
receiver of goods. The liability to pay the entire service tax rests with the
person who pays the freight. However, in the year 2012, the method of
reverse charge mechanism is changed wherein partial service tax is payable
by the service recipient and rest of the service tax is payable by the service
provider.

Reverse charge mechanism\(^{17}\) is applicable for Goods Transport
Agency Service, Sponsorship Service, Legal Service, Arbitral Tribunal
Service, Service by Directors, Support Service provided by
Government/local authority, Rent-a-cab Service, Security Service and
Service Portion in Execution of Works Contract.

**Impact of Reverse Charge Mechanism**

A direct impact of reverse charge mechanism is that service recipient
has to pay service tax in place of service provider. Service recipient paying
service tax under reverse charge would not be eligible to avail threshold exemption which is available to service providers up to ten lakhs rupees. Thus the service recipients have to discharge service tax even if one rupee of service is received. In case of 100 per cent reverse charge scenario, the service provider will not be in a position to use his input credits against the output liability.

**The Scheme of Service Tax**

The Service Tax provides for the method of levy, the circumstances in which the levy would arise, the procedures to be followed, and allied subjects like registration, self-assessment, etc. The salient features of the Service Tax are:

a. Service tax is leviable on services in respect of which charge of tax has been created under the Act, at the prescribed rates.

b. For this purpose, the “taxable service” and the ‘value of taxable service” have been specifically defined.

c. With effect from 01.04.2005, a threshold limit of Rs.4 lakhs was prescribed, up to which value of all taxable services provided by a service provider during a financial year was fully exempt from tax, provided the total value of all taxable services provided during the preceding financial year had not exceeded Rs.4 lakhs. With effect from
01.04.2007, this small scale exemption limit of Rs.4 lakhs has been enhanced to Rs.8 lakhs and further enhanced to Rs.10 lakhs with effect from 01.04.2008.

d. The Act makes the person providing the service to pay service tax in such manner and within such period as may be prescribed, except in situations provided in Rule 2(1) (d) of the Service Tax Rules. In situations referred to in Rule 2(1) (d), the person receiving the service is liable to pay service tax. For example, under the service “Goods Transport Operators” by road, the receiver of the service is liable to pay the service tax.

e. Provisions have been made for self-assessment, rectification, revisions and appeals etc, as well as for registration of persons liable to pay tax.

f. Credit of service tax and excise duty is being extended across goods and services with effect from 10.09.2004.

**Basic Propositions**

**Act does not Extend to Jammu & Kashmir**

Section 64(1) of Chapter V of the Finance Act, 1994 states that “this tax extends to the whole of India except the State of Jammu and Kashmir”. Therefore, services provided within the territorial limits of the State of Jammu and Kashmir are excluded from the purview of the levy of service tax. The service provided from the territorial limits of the State of Jammu
and Kashmir to the other parts of the country is taxable. However, the service provided from other parts of the country to the territorial limits of the State of Jammu and Kashmir is exempted. The idea is that the persons located in the State of Jammu and Kashmir need not pay service tax for the service they receive within the State of Jammu and Kashmir.

**Service Tax cannot be Levied More Than Once**

Just as central excise duty cannot be charged twice on the same goods, so as service tax cannot be charged twice on the same service. Any service can be taxed only once, even if it appears to fall under two or more separate categories.

The report of the study team on reform of domestic trade taxes while generally favouring the general approach, however stated, “for several reasons, it may not be feasible or even desirable to go in for the taxation of the generality of services at the state level right now”\(^\text{18}\). The first argument given for selective approach was that in respect of some services, exemption has to be provided for several categories of the same service. For example, in the case of health and education services, it is contended that the service provided by the Government institutions should be exempt and those by the private sector should be taxed. The second argument in favour of the selective approach given by the study group is that bulk of consumer services provided at the retail level are by small firms and unorganised
sector and with a reasonable threshold most of these services would be excluded from the tax net anyway and excluding the small service providers would be desirable from the administrative point of view.

**Statement of the Problem**

Due to the changes introduced through the Budget, there is bound to occur ups and downs in the collection of Service Tax in respect of different services. The fiscal policy of the Central Government has a serious and straight impact on the tax collections. When there is a cut in the tax structure, the revenue collections are adversely affected and when there is a hike in the tax rates, buoyancy is witnessed in the tax collections. Another factor affecting the tax collections is the “Cenvat Credit” (a set-off system to avoid cascading effects of taxes) allowed by the Government on various input services and capital goods used for rendering of services.

So far, no systematic and scientific research study is carried on about the collection of service tax and its impact on the service sector. The scholar attempts to conduct an in depth assessment of the service tax collection in Tirunelveli Central Excise Commissionerate and its impact on service providers. The present study explains the significance of service tax to the exchequer. This study is expected to be of use to the policy makers, both to the Central Government and State Government.
Objectives of the Study

This study is carried on with some objectives such as:

1. Assessing the various statutes governing the Service Tax.

2. Measuring the relationship between the Service Tax revenue and GDP growth rate by calculating the compound annual growth rate of Service Tax and GDP.

3. Examining the actual benefit enjoyed by the service providers due to the collection of Service Tax.


5. Studying the strong retarding impact of “Cenvat Credit” system, on the revenue collections of the service providers located in the Tirunelveli Central Excise Commissionerate.


Methodology

The Tirunelveli Central Excise Commissionerate is a fairly compact Commissionerate with five Central Excise Divisions working there under viz. Tirunelveli, Tuticorin, Kovilpatti, Rajapalayam and Sivakasi. Interactions will be made with the heads of these divisions and also with the top level authorities of the Head Office of the Commissionerate. That apart, the profiles of important tax payers in the area will also be studied.
Interactions will also be made with the trade organizations such as the Chamber of Commerce, Service Providers Associations, etc. which vociferously campaigning for exemptions and concessions.

Sources of Data

This study relies mainly on secondary data. The Statistics Section of the Tirunelveli Central Excise Commissionerate will be the prime source of data. Further, the publications of the Central Excise Department and the Budget bulletins, Annual Economic Surveys etc. would also form a valuable source of data. Besides, the journals and newspapers carrying articles and essays on the topics related to Service Tax and also the private editions on the Service Tax tariff system, the Cenvat Credit system etc. would also constitute a useful source of data.

The data thus collected have been tabulated on the basis of different criteria. Wherever necessary statistical tools have been used to provide a clear picture.

Statistics is a body of mathematical techniques or processes for gathering, organising, analysing and interpreting numerical data. Since research yields such quantitative data, statistics is a basic tool of measurement in research. It is used to describe the numerical data that are gathered.
The data collected has to be processed and analysed in accordance with the outline laid down for the purpose, at the time of developing the research plan. Kothari Commission report points out that, “it is essential for a scientific study and for ensuring that we have all relevant data for making contemplated comparison and analysis. The term analysis refers to the computation of certain measures along with searching for patterns of relationship that exist among data groups”\textsuperscript{19}. The collected data have been analysed with the help of computer and the results are presented.

**Tools used in the Analysis of the Data**

Certain Statistical tools such as

1. Percentage analysis
2. Annual growth rate
3. Compound annual growth rate and
4. Correlations have been attempted in this study to arrive at meaningful inferences.

**Annual Growth Rate**

**Compound Annual Growth Rate**

The CAGR is a tool used to determine the annual growth rate. The CAGR is an useful measure of growth over multiple time periods, or over a period of several years. It gives the geometric average of annual growth rates.
CAGR (to, tn) = \left[ \frac{V(tn)}{V(to)} \right]^{\frac{t_n - t_o}{n}} - 1

Where \ V (to) represents the start value

\ V (tn) represents the finish value and

\ (tn –to) represents the number of years

**Correlation**

The correlation analysis attempts to determine the degree of relationship between variables. The degree of relationship between GDP and direct tax, GDP and indirect tax, GDP and total tax revenue, GDP and service tax revenue over a period of time could be determined with the help of correlation analysis.

The formula used here is

\[ r = \frac{\sum dx dy - \frac{(\sum dx)(\sum dy)}{N}}{\sqrt{\sum dx^2 - \frac{(\sum dx)^2}{N}} \times \sqrt{\sum dy^2 - \frac{(\sum dy)^2}{N}}} \]

**Scheme of Work**

The present study, “An economic assessment of the collection of service tax in the Tirunelveli Central Excise Commissionerate” has been divided into seven chapters.
1 The first chapter is an introductory chapter, which discusses service tax, need for taxing services, scope of service tax, objectives of the study, methodology adopted, limitations of the study and scheme of work.

2 The second chapter elucidates the review of the past studies made in relevant field.

3 The third chapter analyses the statutes related with service tax.

4 The fourth chapter presents trend in Service Tax Revenue. It also pictures the growth rate of GDP, tax revenue and service tax collections in India.

5 The fifth chapter discusses the service tax revenue in Tirunelveli Central Excise Commissionerate, over the period of this study, its annual growth rate and compound annual growth rate along with the changing rate of service tax, growth of assessees and the number of services under tax net.

6 The sixth chapter evaluates profitability of Service Tax to the service providers.

7 The seventh chapter provides the results of this study in a nutshell, inferences arrived as a result of analysis made in the previous chapter and offers appropriate suggestions based on the finding of the study.
REFERENCES


15 [www.servicetax.gov.in/](http://www.servicetax.gov.in/)


