

CBEC vide **Circular No. 173/8/2013 – Service Tax dated October 7, 2013**, has clarified the following queries in respect of exemption provided towards restaurant services vide Notification No. 25/2012 –ST.

<i>S.No.</i>	<i>Query</i>	<i>Clarification as provided</i>
1	In a complex where air conditioned as well as non-air conditioned restaurants are operational but food is sourced from the common kitchen, will service tax arise in the non-air conditioned restaurant?	Services provided in relation to serving of food or beverages by a restaurant , eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as 'specified restaurant') attracts service tax. <u>In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non air-conditioned or non centrally air- heated restaurant will not be liable to service tax.</u> In such cases, service provided in the non air-conditioned / non-centrally air-heated restaurant will be treated as exempted service and credit entitlement will be as per the Cenvat Credit Rules.
2.	In a hotel, if services are provided by a specified restaurant in other areas e.g. swimming pool or an open area attached to the restaurant, will service tax arise?	Yes. Services provided by specified restaurant in other areas of the hotel are liable to service tax.
3.	Whether service tax is leviable on goods sold on MRP basis across the counter as part of the Bill/invoice.	If goods are sold on MRP basis (fixed under the Legal Metrology Act) they have to be excluded from total amount for the determination of value of service portion.

However, the much awaited clarification failed to provide clarification regarding Sale of food made by Hotels and Restaurants under Take away / home delivery

The related circular is reproduced hereafter:

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

Lunawat & Co.

Chartered Accountants

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Circular No.173/8/2013 – ST

F.No.334/3/2013-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tax Research Unit

North Block
New Delhi, 7th October, 2013

To
Chief Commissioners of Central Excise and Customs (All),
Director General (Service Tax), Director General (Central Excise
Intelligence), Director General (Audit),
Commissioners of Service Tax (All)
Commissioners of Central Excise (All),
Commissioners of Central Excise and Customs (All).

Madam/Sir,

Subject: Restaurant Service- clarification -regarding

As part of the Budget exercise 2013, the exemption for services provided by specified restaurants extended vide serial number 19 of Notification 25/2012-ST was modified vide para 1 (iii) of Notification 3/2013-ST. This has become operational on the 1st of April, 2013.

2. In this context, representations have been received. On the doubts and questions raised therein clarifications are as follows:

	Doubts	Clarifications
1.	In a complex where air conditioned as well as non-air conditioned restaurants are operational but food is sourced from the common kitchen, will service tax arise in the non-air conditioned restaurant?	Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as 'specified restaurant') attracts service tax. In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but

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3. Trade Notice/Public Notice may be issued to the field formations and taxpayers. Please acknowledge receipt of this Circular. Hindi version follows.

Yours sincerely,

(S. Jayaprahasam)
Technical Officer, TRU
Tel: 011-2309 2037

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