

Problems on Service tax

Problem No 1

A Ltd. has agreed to render services to Mr. Guru. The following are the chronological events: Contract for services entered into on 31/8/2010

Advance received in September 2010	Rs. 60,000
Total value of services, billed in February 2011	Rs. 2,10,000
Above includes non-taxable services of	Rs. 70,000
Balance amount is received in March 2011	

When does the liability to pay service tax arise and for what amount? Contract contains clear details of services; consideration and Service Tax are charged separately, as mutually agreed upon.

Answer:

A Ltd. being a company, is liable to pay service tax on monthly basis. The service tax shall be paid within 5 days. Further, taxable value of service tax is "gross amount charged" which includes any amount received before or after provisioning of service. Accordingly, service tax liability shall be discharged in following manner

Advance Received in Sep. 2010: This advance will attract ST liability immediately on the receipt thereof since service tax is payable on any amount received towards the value of taxable services. Thus, he shall pay Rs $[(60,000 \times 1.40.000 / 2,10,000) \times 10.30\%]$ by 5th Oct. 2010.

Note :

It shall be noted that only advance towards taxable service will attract ST on its receipt. Out of advance of Rs 60,000/-, 20,000 is towards non-Taxable services (computed on pro-rata basis)

Payment received in March, 2011: Out of total contract value of Rs 2,10,000, value of taxable services is Rs 1,40,000 (Rs 2,10,000 - 70,000). And out of this Rs 1,40,000, advance of Rs 40,000 has already been taxed and ST thereon has been paid for. Thus, on balance amount of Rs 1,00,000/- ST is payable by 31st March itself. The amount payable shall be Rs. $(80,000 \times 10.30\%)$.

Problem No 2

A PARTNERSHIP FIRM gives the following particulars relating to the services provided to various clients by them for the HALF YEAR ENDED 30/9/2010.

- Total bills raised for Rs. 8,75,000 out of which : bills for Rs. 75,000 was raised on an approved international organization and the payment of bill for Rs. 1,00,000 were not received till 30/9/2010.
- Amount of Rs. 50000 was received as an advance from XYZ Ltd. on 25/9/2010 to which the services were to be provided in Oct 2010.

You are required to work out the taxable value of services and amount of service tax payable.

Problem No 3

Mr. Saravanan has collected sum of Rs. 15000 as a service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the central government?

Provisions of sec 11 D of Central excise act applicable to service tax, any amount collected towards service tax should be deposited to the credit of the central government within due dates specified. Hence saravanan has to deposit the service tax collected Rs.15000/- to the credit of the Government.

Problem No 4

M/s Priya rendered taxable services to a client. A bill of Rs. 40000 was raised on 29/4/2010. Rs. 15000 was received from a client on 1/5/2010 and the balance on 23/5/2010. No service tax was separately charged in the bill. The questions are:

- a. Is Ms Priya liable to pay service tax, even though the same has not been charged by her?
- b. In case she is liable, what is the value of taxable services and the service tax payable?

Answer

a. **Liability to pay Service tax when not charged from service recipient :** Under service tax provision, service provider is liable to pay service tax and his liability is not dependent upon whether he has charged it from the client or not. Thus, M/s Priya will remain liable for payment of service tax even though he has not charged it from service recipient.

b. **Amount of Service tax payable :** M/s Priya is liable to pay service tax on quarterly basis as it is proprietary concern. So, on whatever value it has received in the quarter ending 30th June, 2009, it is liable to pay service tax by 5'h of July. 2009 (presuming payment is not e-payment). It has realized entire bill (payment) in the quarter ending on 30cn June. 2009. Since service tax has not been charged separately, the amount charged shall be treated as cum-service tax and service tax shall be computed by making backward calculations. So, on entire Rs 40,000, it shall pay service tax of Rs $(40,000 \times 10.30 / 110.30)$.

Problem No 5

An unregistered "Service provider" provides following details in respect of taxable services provided during the Financial Year:2010-11

Date	Particulars	Amount
30.6.2010	Advance received from a customer	1,00,000
30.9.2010	Part payment received against a bill of Rs. 9,50,000 raised on a customer	5,00,000
31.12.2010	Money received against taxable services provided during	3,00,000
31.1.2011	Taxable services rendered during January, 09	1,00,000
31.3.2011	Taxable service provided during March, 10	2,00,000

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The service tax provider complies with the provisions of registration and collection of service tax as per service tax laws.

He gets registered during the year. He received the money against the bills raised during the months January and March, 2011. Compute the service tax liability of service provider for the year 2010-11 considering the rate of service tax @ 10.3%.

The service provider is unregistered service provider at the start of the FY 2009-2010. This means his turnover for the year preceding to the FY 2009-2010 was less than the prescribed limit of Rs. 9 lakhs. This will mean that he is a small service provider during the year 2009-2010 and therefore he is entitled to claim exemption of Rs. 10 lakhs from the turnover of the FY 2009-2010

COMPUTATION OF Service Tax Liability

Total amount received for the services provided/ to be provided	12,00,000
Less: exemption available to SSP (upto 10 lakhs receipts)	(10,00,000)
Taxable value	2,00,000
Service tax @ 10.30%	20,600

Problem No 6

Ms. Priyanka, a proprietress of Royal Security Agency received Rs.1,00,000 by an account payee cheque, as advance while signing a contract for providing taxable services. She receives Rs.5,00,000 by credit card while providing the service and another Rs.5,00,000 by a pay order after completion of service on 31/1/2011. All three transactions took place during financial year 2010-11. She seeks your advice about her liability towards value of taxable service and the service tax payable by her.

Answer:

Ms. Priyanka is liable for service tax in financial year 2010-11 as gross receipt from security agency exceeded the basic exemption limit of Rs.10,00,000. Ms. Priyanka has to pay service tax on amount exceeding Rs.10,00,000 i.e. (11,00,000 - 10,00,000 = 1,00,000) @ 10.30%.

Note – It has been assumed that during the preceding, year the value of services rendered by her were less than Rs.10,00,000 and therefore she is small service provider, Otherwise she shall be liable to pay service tax on the entire amount of Rs.11,00,000.

Problem No 7

Mr. Y is a CONSULTING ENGINEER raised a bill of Rs. 2,24,720 (including service tax) on his client for the consulting services rendered by him in the month of June 2009. A partial payment of Rs. 1,68,540 was received by him in the month of March 2010. COMPUTE the service tax amount payable by Mr. Y and THE DUE DATE by which service tax can be deposited.

Ans:

Computation of Service Tax: Service tax is payable on receipt basis. Though charge of service tax is on the event of providing services but payment of service tax to the CG is deferred till the receipt of the value of taxable services.

In other words, Service tax is not payable at the time of rendering of service or at the time of invoicing. Service Tax is payable only upon receipt of payment. Mr. Y, being an individual, is required to pay

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service tax on quarterly basis. Thus, for quarter ending on March, service tax shall be payable by 31st March. Whatever amount has been received in quarter ending on month

of March, service tax shall be payable only on that amount. Further, whatever amount is received by the assesses that shall be treated as cum-service tax. Thus, the amount of service tax shall be calculated as follows: ST Payable - $[1,68,540 * 10.30 / 110.30] = \text{Rs. } 15,739/-$

Problem No 8

Mr. X, a service provider who pays service tax regularly, was of the opinion that a particular service was not liable for service tax. He, therefore, did not charge service tax in his bill. He received the bill amount without service tax. How will service tax liability of Mr. X be determined in such case?

The liability to pay service tax remains with the service provider in the current scenario. Failure to charge service tax doesn't negate(cancel) his statutory liability. In the event of any such failure, whatever is recovered from the customer / client will be taken to constitute amount inclusive of service tax. Accordingly, the amount of service tax shall be determined and that amount shall be deposited to the credit of CG [CBEC Clarification]. Thus, Mr. X, shall be liable to pay service tax which shall be computed as below: $ST = (\text{Gross Amount Charged}) * 10.30 / 110.30$

Problems on Specific Services A to L

Problem No 9.

- The value of service provided by a consulting engineer is Rs. 10,00,000 (exclusive of service tax). He has paid Rs. 50,000 as cess under Section 3 of the Research and Development Cess Act, 1986. What is the amount of Service tax payable by him? (CA Final Old Syllabus November 2008)

Answer – Service tax on Rs 10 lakhs is 1,03,000. R&D cess paid is Rs 50,000, which is allowable as deduction. Hence, net service tax payable is Rs 53,000.

Problem No.10 - Calculate the value of taxable service under Cargo handling services of Cargo Ltd., providing brief reasons where required with suitable assumptions based on the following information for the month of April, 2009: (i) Total amount charged for all services Rs 40 lakhs (ii) Receipts for services in relation to export cargo and Handling of passenger baggage including in (i) above Rs 13 lakhs (iii) Charges for storage and cleaning of empty containers of Shipping lines included in (i) above Rs 10 lakhs (iv) Charges for packing and transport of Cargo included in (i) above Rs 3 lakhs (v) Charges for handling of agricultural produce included in (i) above Rs 2 lakhs (vi) Charges for transportation of Cargo included in (i) above Rs 5 lakhs (CA Final November 2009)

Answer – Deduction of export cargo is allowed in the definition itself. Cargo handling relating to agricultural produce is exempted. Packing and transport incidental to cargo are included in the definition itself. Charges for storage and cleaning of empty containers of shipping lines is not part of 'Cargo Handling Service' and hence not includible.

Thus, deduction of 13 plus 10 plus 2 can be claimed from Rs 40 lakhs and value of taxable service is Rs 15 lakhs.

Problem No.11

X & Co. a partnership firm, is providing taxable legal consultancy services, for the second consecutive year. The firm furnishes the following information relating to the services rendered, bills raised,

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amounts received relating to this service, for the year ending March 31, 2010 – (i) free services rendered to poor people (value of the services computed on comparative basis) – Rs 40,000 (ii) Advances received from clients for which no taxable service has been rendered so far – Rs 5,00,000 (iii) Services billed to clients (gross amount) (service tax has been charged separately in all the Bills; the firm follows mercantile system of accounting) – Rs 12,00,000 (iv) The firm has received the following amounts during the year relating to taxable services rendered in March, 2009 (excluding service tax at applicable rates and TDS under section 194J to the tune of Rs 45,320) – Rs 5,44,680 (v) amount received relating to taxable services rendered in the current year 2009-10 (excluding service tax at applicable rates and TDS under section 194J to the tune of Rs 1,20,000) – Rs 9,80,000 (This amount includes Rs 50,000 for the appearance before Labour Court received from another firm. Service tax has been separately received for the applicable items in (v) above. You are required to compute the value of taxable services for the year ending March 31, 2010 and the service tax payable, briefly explaining the treatment of each item above (CA IPCC May 2010).

Answer – (i) No service tax (ii) Tax payable on service to be provided i.e. advance received. Hence value is Rs 4,53,309 $[(5,00,000 \times 100)/110.30]$ and service tax is Rs 46,691 (iii) No tax since service tax is payable on receipt basis and not billing basis (iv) Net amount received including TDS – Rs 5,90,000 (Rs 5,44,680 + 45,320) [TDS is also 'amount received' and hence service tax is payable (v) Taxable amount received during 2009-10 – Rs 10,50,000 $[9,80,000 + 1,20,000 - 50,000]$ (No service tax on charges for appearing before Court, Tribunal or statutory authority) Service tax payable is Rs 1,08,150 $[10.30\% \text{ of Rs } 10,50,000]$. Hence, total service tax payable is Rs 2,15,611.

Problem No 12

Smart & Express Co. is providing taxable information technology software services. The firm furnishes the following information relating to the services rendered, bills raised, amount received pertaining to this service, for the financial year ended on 31st March, 2010 as under - (i) Amount received being 10% of the assignment fees on 31st March, 2010 for the upgradation and enhancement of software services to be rendered during the financial year 2010-11- Rs 6,00,000 (ii) Services provided to UNICEF, an International Organisation in Gandhinagar, for analysis, design and programming of latest information technology software – Rs 5,00,000 (iii) Services billed to client – Rs 3,00,00,000 (In one of the bill amounting to Rs. 3,00,000, service tax was not charged due to conflicting nature and in another bill, the firm failed to recover the service tax from the client, which was charged separately, due to insolvency of the client, the bill details are as under - Being the charges for right to use IT software – Rs 8,00,000 plus Service tax @10% Rs 80,000 plus Education cess @ 2% Rs 1,600 plus Secondary & Higher education cess @1% Rs 800 – Total Rs 8,82,400) (iv) Amount received for services rendered during current financial year (excluding payment for 2 bills in item (iii) above for which payment received during current financial year) - Rs 1,04,78,500. - - Service tax and education cess have been charged separately in all the bills except wherever mentioned when it is not so charged separately. - - Compute the value of total taxable services and service tax payable thereon for the year ended 31-03-2010, assigning reason in brief to the treatment of all items (CA IPCC and AT November 2010)

Answer – Treatment of each item is as follows - (i) Tax payable on advance of Rs 6,00,000 (ii) The service is not in the course of or furtherance of commerce and hence Rs 5,00,000 not taxable (Note – This exclusion has been omitted w.e.f. 1-7-2010. Thus, after 1-7-2010, such service will be taxable) (iii) Service tax is not payable on billing basis but on receipt basis. Hence, figure of Rs 3,00,00,000 is not relevant (iv) Tax is payable on amount received Rs 1,04,78,500. In absence of any specific information, this amount is assumed to be inclusive of service tax charged in Bills. In respect of bill of Rs 3,00,000, in absence of any specific information, it is presumed that the service was actually taxable. Hence, the

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amount is to be treated as inclusive of service tax. Similarly, in respect of another bill, only Rs 8,00,000 have been received. These have to be treated as inclusive of service tax. - - Hence, total gross amount received – Rs 6,00,0000 plus Rs 1.04,78,500 plus Rs 3,00,000 plus Rs 8,00,000. Thus, total gross amount received – Rs 1,21,78,500. Hence, value of taxable service is $(1,21,78,500 \times 100)/110.30$ i.e. Rs 1,10,41,251.13 Service tax @ 10% is Rs 11,04,125.12. Education cess @ 2% is Rs 22,082.50 and SAHE cess @ 1% of service tax is Rs 11,041.25

If amount of Rs 1,21,78,500 is treated as net amount excluding service tax, the calculations will change.

Problem No 13

X Bank Ltd., furnishes the following information relating to services provided and the gross amount received : (Figures in Rs lakhs) * Merchant Banking Services 8 * Asset Management (including portfolio management) 3 * Service charges for services to the Government of India 1.5 * Interest on overdraft and cash credits 2 * Banker to the issue 5 * Locker rent 2. Repayment of financial lease made by the customer to the bank Rs. 80 lakhs which includes a principal amount of Rs. 50 lakhs. Compute the value of taxable service under “Banking and other financial services” under the Finance Act, 1994 and the service tax liability of X Bank Ltd., considering the rate of service tax at 10.3% (CA Final New Syllabus November 2010)

Answer – Interest on overdraft and cash credit facility is exempt (Notification No. 29/2004-ST dated 29-9-2004).. Hence, service tax is not payable on Rs 2 lakhs. Services provided to Government for tax collection are exempt (Notification No. 13/2004-ST dated 10-9-2004). It is not clear what service was provided to Government of India. It is presumed that it was for tax collection and hence exempt. In case of leasing, tax is payable on 10% of interest only. Hence tax is payable on 10% of Rs 30 lakhs (80 – 50), i.e. on Rs 3 lakhs. Thus, service tax is payable on gross amount of Rs 21 lakhs (8 + 3 + 5 + 2 + 3). Net value for service tax will be Rs 19,03,898.45 $[21,00,000 \times 100/110.30]$. Service tax @ 10% will be 1,90,389.85, education cess @ 2% Rs 3,807.80 and SAHE cess @ 1% - Rs 1,903.90. Total tax – Rs 1,96,101.55.

Examples on taxable services M to Z

Problem No.14

A labour contractor of manpower charges to the principal employer for the wages of their labour which amounts to Rs. 1,00,000 plus PF and ESIC contribution of labour Rs 10,000 plus their service charges of Rs. 12,000 for arranging the labour. How much service tax is payable under Manpower Recruitment and Supply service if service tax rate is 10.30%. What will be the tax payable if Principal Employer pays wages directly to workmen and PF and ESIC directly to concerned authorities?

Answer - .As per MF(DR) circular No. B1/6/2005-TRU dated 27-7-2005 para 22.4, service tax is to be charged on the full amount of consideration for the supply of manpower, whether full-time or part-time. The value includes recovery of staff costs from the recipient e.g. salary and other contributions. Thus, as per departmental circular, service tax is payable on Rs. 1,22,000. Even if employer pays Rs. 1,00,000 directly to workmen/staff, Rs. 10,000 towards ESIC/PF and Rs. 12,000 to the contractor, still service tax will be payable on Rs. 1,22,000. Thus, service tax payable is Rs 12,566 even if the labour contractor gets only Rs 12,000 for arranging the labour.

Problem No.15

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Compute value of taxable service under “intellectual property service” using the details given below : (figures in Rs.) (1) Royalty for providing designs and patents @ 5% 20,00,000 (2) Lumpsum royalty for permanent transfer of trademark 25,00,000 (3) Royalty under brand licensing arrangement for use of brand name 15,00,000 (CA Final Old Syllabus November 2010)

Answer – (1) It is taxable (2) Not taxable (3) Taxable. The amount should be taken as inclusive of service tax and value to be found out by back calculations.

Problem No.16

D & Co. is engaged in the services of site preparation and clearance, excavation earth moving and demolition services. The gross amount received during the quarter ended 30-06-2009 for the services provided by them are given below : (Figures in Rs) - Core extraction services for construction 1,80,000, Land reclamation work 80,000, Services in relation to agriculture 2,00,000, Renovating or restoring water sources 3,50,000, Horizontal drilling of passage of cables or drain pipes 1,00,000, Soil stabilization 90,000, Construction of transport terminals 55,000. Calculate the value of taxable services under “Site preparation and clearance, excavation, earth moving and demolition services’ under the Finance Act, 1994 and the service tax payable at 10.3%. (Provide brief explanations where required.) (CA Final November 2010)

Answer – Work relating to agriculture and renovating or restoring of water sources has been excluded from the definition of ‘site preparation and clearance, excavation earth moving and demolition services’. Site preparation relating to construction of transport terminals has been exempted vide Notification No. 17/2005-ST dated 7-6-2005. Thus, gross amount on which service tax is payable is Rs 4.5 lakhs (1.8 + 0.8 + 1.0 + 0.9). Hence, value for purpose of service tax is Rs 4,07,978.24 (4,50,000 x 100/110.3). Service tax @ 10% is Rs 40,797.82. Education Cess @ 2% is Rs 815.96 and SAHE cess @1% is 407.98. Total tax payable is Rs 42,021.76.

Problem No.17

Shashwat Hotels Pvt. Ltd. has given the following information for F.Y.2009-10. You are required to compute the taxable services under Service Tax Act and the tax thereon for FY 2009-10 without assigning any reason for the treatment - (i) Reception room and vehicle parking space were let out for a film shooting for 3 months. The charges received for this Rs. 5 lacs (ii) The conference hall was let out to a Gujarati Samaj Trust for a week for a music competition for Rs. 50,000 (iii) The hotel was booked by a customer for 3 days for a marriage function. The room booking charges were received in advance (excluding service tax) in the same year of Rs. 50,000. The electricity charges separately billed Rs. 20,000, hire charges including catering charges for 3 days billed of Rs. 3,25,000 after deducting the advance (iv) During the year, the conference hall was let out to MNO Ltd. The charges received were as under - Hall rent Rs. 4 Lacs, computer & projector systems charges Rs. 25,000, electricity charges Rs. 30,000. Hall rent includes charges for snacks and cold drinks Rs. 50,000 (v) The hotel garden was let out to a political party for 2 days for a meeting. The charges received Rs. 25,000. - - The hotel charges 10% service charges which are later distributed as tips to employees. - - The above charges are excluding service tax. All the charges have been received in FY 2009-0. The hotel has already been registered under Service Tax Act in F.Y. 2008-09 (CA IPCC and AT November 2010)

Answer – It is presumed that assessee is registered for service tax under ‘mandap service’. It is also presumed that assessee is not eligible for threshold exemption of Rs 10 lakhs, as he is already registered under service tax in FY 2008-09. Taxability of each is as follows – (i) Not taxable as the service is not for official, social or business function (ii) Rs 50,000 taxable (iii) No service tax on room booking

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charges but electricity charges are includible. Hence, value of service is Rs 3,45,000 (iv) Total value of service – Rs 4,05,000 (Charges for snacks and cold drinks are deductible since these are 'goods'. Value of goods is not considered while calculating value of service) (v) Political meeting is not an official, social or business function and hence the amount is not subject to service tax. - - Service charges of 10% are includible as it is part of value of service. - - Total value of Bills taxable – Rs 8,00,000 (50,000 plus 3,45,000 plus 4,05,000). Add 10% service charges Rs 80,000. Hence, total value of services for levy of service tax – Rs 8,80,000. Service tax @ 10% - Rs 88,000. Education cess @ 1% - Rs 1,760. SAHE cess – Rs 880. Total service tax payable – Rs 90,640.

Problem No.18

A mandap keeper is providing catering services of full meals along with mandap services. His total Bill for services came to Rs 1,00,000, including catering charges. Calculate the service tax payable, if tax rate is 10.30%.

Answer - If a mandap keeper or hotel provides catering services of full meals, tax will be payable only on 60% of the gross amount charged to client, provided he does not avail Cenvat credit of inputs and capital goods. Hence, service tax is payable on Rs 60,000. Hence, service tax @ 10% will be Rs 6,000 plus education cess of Rs 120 (2% of Rs 6,000), plus SAHE cess of Rs 60 (1% of Rs 6,000)

Problem No.19

- Rosy Tours Co. has arranged three package tours during F Y 2008-09. The particulars of the Services and Charges are as under : (i) Tour 1: April, 2008 – Charges received Rs. 3.5 Lacs The package includes transportation, accommodation, food, tourist guide and entry fees for monuments (ii) Tour 2 : October, 2008 – Charges received Rs. 6.5 lacs. The package includes transportation and accommodation for stay (iii) Tour 3 : December, 2008 – Charges received Rs. 4 lacs. The charges are solely for arranging accommodation for stay. However, the bills issued to the clients do not mention it clearly that the charges are solely for arranging the accommodation for stay. All the charges are excluding service tax. The rate of service tax is 12% plus education cess. Compute the taxable services and tax thereon (CA IPCC November 2009)

Answer – (i) Tax payable is 25% of normal tax. Hence service tax @ 25% of 12.36% of value of Rs 3.5 lakhs would be Rs 10,815.

(ii) Tax payable is 25% of normal tax. Hence service tax @ 25% of 12.36% of value of Rs 6.5 lakhs would be Rs 20,085.

(iii) The rate of 10% applies if the charge is inclusive of cost of accommodation and bill indicates that it is towards charges for such accommodation. Since these conditions are not fulfilled, the service tax would be 40% of normal tax. Hence service tax @ 40% of 12.36% of value of Rs 4 lakhs would be Rs 19,776.

Problem No 20

Charges received Rs. 3.5 Lacs The package includes transportation, accommodation, food, tourist guide and entry fees for monuments (ii) Tour 2 : October, 2008 – Charges received Rs. 6.5 Lacs. The package includes transportation and accommodation for stay (iii) Tour 3 : December, 2008 – Charges received Rs. 4 Lacs. The charges are solely for arranging accommodation for stay. However, the bills issued to the clients do not mention it clearly that the charges are solely for arranging the accommodation for stay.

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All the charges are excluding service tax. The rate of service tax is 12% plus education cess. Compute the taxable services and tax thereon (CA IPCC/AT November, 2009)

Answer – (i) Tax payable is 25% of normal tax. Hence service tax @ 25% of 12.36% of value of Rs 3.5 lakhs would be Rs 10,815.

(ii) Tax payable is 40% of normal tax. Hence service tax @ 40% of 12.36% of value of Rs 6.5 lakhs would be Rs 32,136 (It is 40% since the tour does not fall within the definition of 'package tour' as defined in exemption notification)

(iii) The rate of 10% applies if the charge is inclusive of cost of accommodation and bill indicates that it is towards charges for such accommodation. Since these conditions are not fulfilled, the service tax would be 40% of normal tax. Hence service tax @ 40% of 12.36% of value of Rs 4 lakhs would be Rs 19,776.

Problem No.21

Calculate the net service tax payable under the provision of rule 2A of the Service tax (Determination of Value) Rules, 2006 relating to determination of value of services in the execution of a works contract from the following particulars: (i) Gross amount for the works contract (excluding VAT) Rs 1,00,000 (ii) Value of goods and materials sold in the execution of works contract Rs. 70,000 (iii) CENVAT credit on (ii) above Rs. 1,000 (iv) Service tax paid on input services Rs. 1,000 (v) CENVAT credit on capital goods issued in the provision Rs. 1,000 of works contract service (vi) Service tax rate 10.30%. Make suitable assumptions and provide explanations where required (CA Final, New Syllabus, Nov., 2008)

Answer – Service tax on 'value of service'; i.e. on Rs 30,000 [100,000-70,000] @ 10.30% is Rs 3,090. Cenvat credit of Rs 1,500 is available [Credit of Rs 1,000 on input services and Rs 500 (50% of Rs 1,000) on capital goods is available. Cenvat credit of service tax paid on inputs of Rs 1,000 is not available]. Hence, net service tax payable is Rs 1,590.

Problem No. 22

Calculate the value of taxable service of "X" Transport Company engaged in the business of transport of goods by road. Give reasons for taxability or exemption of each item. No freight is received from any of the specified category of Consignor/Consignee. Suitable assumptions may be made wherever required. X does not avail Cenvat credit. (1) Total freight charges received by 'X' during the year – Rs 13,50,000 (2) Freight charges received for transporting fruits - Rs 1,25,000 (3) Freight collected for transporting small consignment for persons who paid less than Rs. 750 for each consignment - Rs 75,000 (4) Freight collected for transporting goods in small vehicles for persons, who paid less than Rs 1500 per trip - Rs 1,50,000 (CA Final New Syllabus, June 2009).

Answer – All these freight charges mentioned in (1), (2) and (3) are exempt from service tax by notification. Hence, his value of taxable service is Rs 10 lakhs. It is not specified what was his turnover in previous year. If it was less than Rs 10 lakhs, 'X' can avail exemption from service tax in current financial year for entire amount of Rs 10 lakhs. However, if his value of taxable services in previous year were more than Rs 10 lakhs, he cannot avail exemption. In that case, he will be liable to pay service tax on Rs 10 lakhs. In case of GTA service, abatement of 75% is available. Hence, service tax is payable @ 10.30% on Rs 2.50 lakhs, i.e. service tax (including education cess and SAH cess) is Rs 25,750 [Note, if 'X' has not charged service tax extra in his invoice, the value of Rs 2.50 lakhs should be taken as inclusive of service tax and then tax payable should be calculated by making back calculations].

Problem No.23

-The contract for industrial construction is for Rs. 8,00,000 which includes value of services plus material which is to be supplied by contractor. Value of material used by contractor is Rs 5,00,000 and the value of service is Rs 3,00,00 (Total Rs 8,00,000). The customer has agreed to supply steel to contractor free of cost (FOC), the value of which is Rs. 2,00,000. Its value is not considered in quotation given by contractor. The land belongs to customer. Its value is Rs. 4,00,000. Cenvat credit on input services is Rs 10,000, Calculate service tax under composition scheme and also under normal scheme assuming service tax rate of 10.30%, if (a) the contract is covered under State works contract tax **and** (b) The contract is not covered under works contract service.

Answer – Under composition scheme, value of material supplied by customer free of cost is required to be added. In that case, total value of contract (including material supplied by customer, but excluding value of land) is Rs. 10,00,000. The contractor can opt to pay duty @ 33% on total value i.e. on Rs. 3,30,000, if he is not covered under State works contract tax. Service tax payable will be 10.30% of Rs.3,30,000 i.e. Rs 33,990. The contractor cannot avail any Cenvat credit.

If value of land is not shown separately, then service tax will be payable @ 25% of gross amount which will include value of land plus value of material supplied by customer.

If the contract is covered under State Works Contract Tax, the service tax payable is 4.12% of Rs 10,00,000 i.e. Rs 41,200. He can avail Cenvat credit of Rs 10,000. Thus, net tax payable is Rs 31,200.

Under normal scheme of payment of service tax, the tax is payable on value of service of Rs 3,00,000 @ 10.30% i.e. Rs 30,900. Cenvat credit of Rs 10,000 can be availed. Hence, net service tax payable is 20,900.

End of syllabus

Good wishes

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