12-12-2014 SERVICE TAX G. Vinay Bhargav kuma

Topic: "Payment of Taxes & filing of returns."

Valuation of Taxable Services (Sec:67)

After identifying the "Taxable Service", their value will have to be determined - So as to pay Service tax.

Valuation of Taxable Services

↓ Based on Mode of Consideration

- Whole of consideration received in Money
  ↓ Gross Amount charged by service provider.
- Partly in cash & Partly in Non-monetary
  ↓ Money + money equivalent value of Non-monetary Consideration
- Whole in Non-monetary form
  ↓ money equivalent to Non-monetary Consideration
- No Consideration
  ↓ No Service tax.

→ Gross Amount includes payment by cheque, credit card, deduction from account etc,
↓ Inclusive of service tax payable.

* Money includes any currency, cheque, promissory note etc, but does not include currency held for its numismatic value.

ayment of Service tax (Sec:68)

Who is liable to pay Service Tax?

- Service provider (SP)
  ↓ rmally the person providing axable Service is liable to ay Service tax.
- Service receiver (SR)
  ↓ In case of Reverse charge Mechanism.
- Both service provider & service receiver
  ↓ In case of partly reverse charge mechanism.

→ Service Tax should be collected on the amount inclusive of TDS i.e, before deducting TDS.

→ But, TDS should be deducted excluding Service Tax.

→ It is the responsibility of the Service provider to pay the service tax even he is not collected from Service receiver.

Advance payments received for Services:-

→ when advance payment is received for a service which is not taxable at the time of receipt of payment, but becomes taxable during the Course of Provision of Service —

a) Such payments would have to be Apportioned between two periods.

b.) That part of the Service provided on or after the Service become taxable, is only liable for Service tax.

Due Date for payment of service tax:-

→ For Individuals, proprietary Firm, Partnership Firm → 5^{th} of the month following the quarter of collection. (For Q_1, Q_2 & Q_3)
For Q_4 — on or, before 31^{st} March.

→ Other persons → 5^{th} of the month following the month of Collection (monthly).
For march - on or, before 31^{st} march.

* If last day is a public Holiday, payment can be made on next working day.

Form:- GAR-7 challan. (* for multiple Services, seperate GAR7 challans are used).

→ If payment is made through cheque, it is deposited on or, before due date. even it is realised after due date, payment is deemed to be made before due date.

* In case of dishonor of cheque, service tax will not be deemed to have been paid.

→ service tax shall be rounded off to nearest rupee.

* It is mandatory from 01-10-2014, All Assesses who are liable to pay service tax shall pay through e-payment. (Due date for payment will be replaced by 6^{th}). However, relaxation may be allowed by Deputy/Asst Commissioner

→ failure to payment through on-line may be penalty up to ₹10,000/-.

<u>payment of Service tax on estimated basis</u>:-

→ If the assessee is unable to correctly estimate, at the time of deposit, Assessee can make a written request to Assistant / Deputy Commissioner of Excise for payment on provisional basis.

→ while filing return he is required to file a statement in Form ST-3A.

<u>Advance Service Tax</u>:- (optional)

→ Every person liable to pay service tax can pay an amount in advance to credit of Central Government.

→ Later, he can adjust from service tax liability by intimating to jurisdictional Superintendent within 15 days of payment and indicate details in subsequent return filed u/s 70.

<u>Excess Service tax Collection</u> (Sec: 73A)

→ Assesse who has collected an amount in excess of the amount required to be collected, should deposit such amount with the Government.

<u>Interest on Amount Collected in Excess</u> (Sec: 73B)

→ where excess amount has been collected from service receivers, the person liable shall pay the excess amount together with interest.

* Assessee has paid any amount in excess of the amount required to be paid towards Service tax liability can adjust that excess paid only if-

    a.) paid excess Service tax
    b.) Refunded that amount to service receiver
    c.) File the relevant details in ST-3.

Reasons for Such Excess payment because of

→ service not rendered fully/partly.
→ Re-negotiation of invoice amount due to deficient provision of service
→ Re-negotiation of any terms in contract.

And does not involve interpretation of law, classification, valuation etc,

Delayed payment of Service tax - Interest (Sec: 75)

→ Central Govt. may notify Interest rate from time to time which may not be less than 10% and not exceed 36%.

→ Interest rates from 01-10-2014 are
- for upto 6months – 18% p.a
- >6months to 1year – 18% for 6months + 24% for next 6m
- > 1year – 18% for 6m + 24% for 2nd 6months + 30% for >1yr.

→ for small scale service providers concessional @ 3%.

Non-payment of service tax - penalty (Sec: 76)

*** Minimum penalty**

100/- for every day of failure
or,
1% of service tax per month

} whichever is higher.

*** Maximum penalty**

50% of Service tax

→ No penalty if the assessee proves that there was a reasonable cause for such failure.

Registration:- (Sec:-69)

Who is required to register?

Every person liable to pay Service tax	Input Service distributor	Every provider of Taxable Services > 9 lakhs.
Time limit for application (Form ST-1) (duplicate)		
within 30days from date of levy of service tax.	within 30days of Commencement of business	within 30 days of the date in the F.Y where Taxable Services Exceeds 9lakhs.

Registration Requirements:-

→ Mandatory to apply online. (Application)

→ PAN Card

→ constituent of applicant.

→ power of Attorney in respect of Authorised persons.

*** penalty for Non-Registration:-**

→ upto 10,000/-
→ 200/- for every day of failure continues

} Higher of two amounts

Time-limit for Granting Registration:

→ The department is required to issue registration certificate within 7days of receipt of application. In case of failure, deemed to registered.

Furnishing of service Tax returns (Sec: 70)

* E-filing is mandatory.

→ Due dates for filing service tax

* 25th october for the half year ending 30th september
* 25th April for the half year ending 31st march.

If duedate is holiday, then return should be filed on next working day.

→ Revised Returns may be filed within 90days from date of filing of original return.

→ Late fee for delay in filing returns

upto 15days	- 500/-	max. of 20,000/-.
16 to 30 days	- 1000/-	
> 30days	- 1000/- + 100/- for each day of further delay.	

→ filing single return is sufficient even in case of multiple services.

Documents to be attached:

→ ST-3

→ copies of GAR-7 challans.

→ ST-3A (in case of provisional payment of tax).

→ In case of first return, details of accounts maintained in relation to Service tax. to Superintendent of central excise.