

## VAT : EXAMINATION QUESTIONS

May – 2007

1. Which is the most popular and common method for computing VAT liability and at what stage is the tax imposed? (2 Marks)

"Invoice method", also known as "Input Tax Credit Method", is the most common and popular method for computing the tax liability under the VAT system.

Under this method, tax is imposed at each and every stage of sales on the entire sale value, and the tax paid at the earlier stage is allowed as set-off.

2. Is it correct to state that VAT usually increases the retail price, as the tax is payable on the first sale price? (2 Marks)

The statement is not correct as VAT is a multi-point tax where tax is imposed at each and every stage of sales and tax paid at the earlier stage is allowed as set-off. The tax liability under VAT system is same as in case of "last point levy system of sales tax". Thus, VAT will not increase the retail price.

Nov – 2007

1. Does the VAT system bring certainty to a great extent? (2 Marks)

VAT system brings certainty to a great extent. The certainty is brought in the following manner:

- Operation of VAT is quite simple. A dealer gets the credit of VAT paid on purchases which he is entitled to use for paying VAT on his sales.
- The system of set-off reduces the likelihood of tax evasion.

2. Can VAT be said to be non-beneficial as compared to single stage-LAST POINT system?(2 Marks)

Under single stage – Last point levy system, tax is collected only at one stage and not on all stages from, manufacture till consumption. The only stage which is taxed is last stage, i.e., retailer's stage. In other words, retailer's sale (i.e., sale to consumer) is taxed. On the other hand, under VAT system, all the sales in the chain are taxed as VAT is a multipoint levy system.

Now, so far as the tax burden is concerned, total tax burden under VAT system is same as in case of Single – stage Last Point System. However, since the VAT is imposed or paid at various stages and not at last stage, it increases the working capital requirements and the interest burden on the same. In this way, it may be considered to be non-beneficial as compared to the single stage-last point taxation system (though to a certain extent, this be brought down through input credits on purchases).

3. Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Rs. 1,20,000 and after adding for expenses of Rs. 10,000 and of profit Rs. 15,000 had sold out the same. The rate of VAT on purchases and sales is 12.5%. (3 Marks)

### COMPUTATION OF INVOICE VALUE

| Particulars             | Rs.           | Rs.             |
|-------------------------|---------------|-----------------|
| Cost of goods purchased |               | 1,20,000        |
| Add: Expenses           | 10,000        |                 |
| Profit margin           | <u>15,000</u> | <u>25,000</u>   |
| Product Sale Value      |               | 1,45,000        |
| Add: VAT @ 12.5%        |               | <u>18,125</u>   |
| Invoice Value           |               | <u>1,63,125</u> |

### COMPUTATION OF AMOUNT OF TAX PAYABLE UNDER VAT

|                                                                              |               |
|------------------------------------------------------------------------------|---------------|
| VAT charged on sales                                                         | 18,125        |
| Less: Input credit of VAT paid on purchases @ 12.5% on 1,20,000 (Refer Note) | <u>15,000</u> |
| Tax Payable under VAT                                                        | <u>3,125</u>  |

**Note:** It has been assumed that the purchase price of Rs. 1,20,000 is exclusive of VAT.

**4. Briefly explain the INVOICE METHOD of computing tax liability under the VAT system. What are its other names? (3 Marks)**

Invoice method is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. In other words, out of tax so calculated, tax paid at the earlier stage i.e., at the stage of purchases is set-off, and at every stage the differential tax is being paid. The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is also called the 'Input Tax Credit (ITC) Method' or 'Voucher Method'.

Invoice method has also been adopted by India.

**5. What are the different variants of VAT and how is deduction available for tax paid on inputs including capital inputs? (3 Marks)**

There are three variants of VAT viz. gross product variant, income variant and consumption variant.

- 1) **Gross Product Variant:** Under this variant, deduction is allowed for tax paid on all inputs excluding capital inputs.
- 2) **Income Variant:** Under this variant, tax paid on non-capital inputs and depreciation on capital inputs is allowed.
- 3) **Consumption variant:** Under this variant, deduction is allowed for tax paid on all business inputs including capital inputs.

May – 2008

1. Briefly explain the income variant of VAT. (2 Marks)

**Income Variant of VAT:** The income variant of VAT allows for deductions of purchases of raw materials and components as well as depreciation on capital goods. This method provided incentives to classify purchases as current expenditure to claim set-off. In practice, however, there are many difficulties connected with the specification of any method of measuring depreciation, which basically depends on the life of an asset as well as on the rate of inflation.

2. What is the DEMERIT of VAT from the viewpoint that it is a form of CONSUMPTION TAX? (2 Marks)

VAT is a form of consumption tax. Since the proportion of income spent on consumption is larger for the poor than for the rich, VAT tends to be regressive.

However, this weakness is inherent in all the forms of consumption tax. While it may be possible to moderate the distribution impact of VAT by taxing necessities at a lower rate, it is always advisable to moderate the distribution considerations through other programmes rather than concessions or exemptions, which create complications for administration.

3. What are the different stages of VAT? Can it be said that the entire burden falls on the final consumer? (3 Marks)

The VAT is a multistage tax levied as a proportion of the value added (i.e. Sale minus purchase).

In an economy, apart from the manufacturers and final consumers, there would be wholesalers and retailers also. The wholesaler might supply to retailer, and each one of them could supply to the manufacturer and the end consumer. VAT will be collected at each stage, and wherever applicable, the manufacturer or retailer will claim input credit.

Thus, VAT is collected at each stage of production and distribution process, and in principle, its entire burden falls on the final consumer, who does not get any tax credit.

4. Briefly explain how VAT helps in checking tax evasion and in achieving neutrality. (3 Marks)

**NO TAX EVASION:** Under VAT, dealer is allowed credit of tax paid on his purchases which can be set-off against tax payable on sales. Since the set-off is available, there is no incentive on part of dealer to suppress the purchases. Dealer would be demanding sales bill for the claiming of input tax credit and thereby, forcing selling dealer to make recorded sales. Thus, VAT system will be a self-policing system. A perfect system of VAT will be a perfect chain where tax evasion is difficult.

**NEUTRALITY:** A good taxation system, according to the economists, is the one that does not interfere with the production decisions in the Industries. **The greatest advantage of VAT system is that it does not interfere in the choice of decision for purchases.**

To cite an example, a manufacturer purchases raw-materials for Rs 1,000 after paying tax @5%. Adding value of Rs 1,000, he sells the finished goods for Rs 2,000. If the VAT rate applicable to the finished product is 10%, the consumer would get the product for Rs 2,200. Even if the manufacturer had bought a different raw-material liable to a higher VAT rate, say 8%, as in that case also, the final product would get a tax inclusive price of Rs 2,200 and the Value addition of the manufacturer would be the same of Rs 1,000/-. There will not be any change in the total revenue of Govt. in the trade chain. So, buying of a different raw-material liable to a higher tax rate has not brought about any significant change in the overall scenario.

**Nov – 2008**

**1. Can we say that levy of VAT will have effect on the retail price of goods? (2 marks)**

**No, VAT does not affect the retail price.** Under the old system of sales tax, -a single point sales tax was charged on the last sale transaction but under the system of VAT the amount of sales tax gets distributed over all dealers in the chain. Since the amount collected by the state government remains the same so we can say that VAT does not reduce retail price.

This can be explained with the help of the following example:

*"A manufacturer sells good to wholesaler for Rs. 200. Wholesaler adds profit margin of Rs. 300 and sells it to the retailer. Retailer adds profit margin of Rs. 500 and then sells the product for Rs. 1000 to a customer. Assume the rate of sales tax is 4%. "*

**OLD SYSTEM OF SALES TAX**

Under the old system sales tax @ 4% would be charged at Rs. 1000 (last point sales) i.e. Rs. 40.

**SYSTEM OF VAT:**

| Transaction                | Sale Price | Output sales tax | Input sales tax | Net sales tax payable |
|----------------------------|------------|------------------|-----------------|-----------------------|
| Manufacturer to wholesaler | 200        | 8                | 0               | 8                     |
| Wholesaler to retailer     | 500        | 20               | 8               | 12                    |
| Retailer to consumer       | 1000       | 40               | 20              | 20                    |

Under both systems the retail price remains unchanged but under the system of VAT sales tax gets distributed over the chain.

**2. Answer the followings:**

**a. Explain input tax credit in the context of VAT.**

**b. What are the exceptions to the input tax credit?**

**(3 Marks each)**

**a. Concept of Input Tax Credit:** The main feature of system of VAT is that it provides the benefit of set off of input tax from the main output tax. The value added tax is based on the value addition to the goods, and the related VAT liability of the dealer is calculated by deducting input tax credit

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from the tax collected on sales during a particular period.

**Example:** Mr. X purchases raw material worth Rs. 100000 in month of Jan 2009 and records the sales at Rs1,60,000 during the same month. Input and output rate of VAT is 4%. So In this case, Input tax paid on raw material purchased is Rs. 4,000 (1,00,000 X 4%) and tax collected on sales is Rs. 6,400 (1,60,000 X 4%). So VAT payable by Mr. X during the month of Jan 2009 shall be Rs. 2,400.

b. **Exceptions to Input Tax Credit:** Input tax credit is generally given for the entire VAT paid within the state on the purchase of taxable goods meant for resale or manufacture of taxable goods. However no credit is available for the following purchases:

- 1) Goods purchased from other states (i.e., through Inter-State Sale - on which CST has been paid)
- 2) Goods purchased from outside India (i.e., imported goods)
- 3) Goods purchased from Unregistered Dealer;
- 4) Goods purchased without having invoice in support;
- 5) Good purchased but invoice is not showing the amount of VAT separately;
- 6) Goods purchased from registered dealer who has opted for composition scheme under State VAT Act;
- 7) Goods purchased for being utilized in manufacture of exempted goods;
- 8) Good purchased for personal consumption / use;

**June – 2009**

**1. Discuss the word "Transparency" in the context of VAT system.**

**(2 marks)**

**Transparency under VAT:** One great merit of VAT system is its transparency. Under VAT, tax component in sale price becomes 100% transparent.

**Let us consider a trade chain**

Mr. A ————— Mr. B ————— Mr. C ————— Mr. D ————— Consumer.

| Seller | Sale Price | Tax Collected<br>[VAT Rate = 10%] | Tax paid to CG<br>[after setting off Cr] | Total of taxes paid to the Govt.<br>upto this point in the chain |
|--------|------------|-----------------------------------|------------------------------------------|------------------------------------------------------------------|
| (1)    | (2)        | (3)                               | (4)                                      | (5)                                                              |
| A      | 100        | <b>10</b>                         | 10                                       | <b>10</b>                                                        |
| B      | 150        | <b>15</b>                         | 5                                        | <b>15</b>                                                        |
| C      | 200        | <b>20</b>                         | 5                                        | <b>20</b>                                                        |
| D      | 250        | <b>25</b>                         | 5                                        | <b>25</b>                                                        |

As is evident from table, figures given in column (3) and column (5) are identical. It means that at any stage in the trade chain, tax paid by the buyer for any sale is exactly equal to the tax collected by Government from that commodity. Thus, there is no hidden tax. To be specific, the final buyer who buys from D pays a tax of Rs 25. This Rs 25/- is the total tax the Government gets from that commodity. So, under VAT system every buyer knows the exact amount of the tax he pays to the

Government. This makes VAT system transparent.

2. Compute the VAT amount payable by Mr. A who purchases goods from a manufacturer on payment of Rs. 2,25,000 (including VAT) and earn 10% profit on sale to retailers? VAT rate on purchase and sale is 12.5%. (3 marks)

3. Answer the following:

- a. How can AN AUDITOR play role to ensure that the tax payers discharge their tax liability properly under the VAT system?  
b. Discuss the 'Subtraction method' for computation of VAT. (3 Marks)

- a. **Role of Auditor in VAT:** Auditor can play a very significant role to ensure that tax payers discharge their tax liability properly. An auditor can assist the tax payer in following main aspects:

|   |                                                                                                                                                                                                                                                                                                                                              |
|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Record keeping:</b> Auditor will guide the assessee as to how to maintain books of accounts and records properly so that they reflect faithfully the taxpayer's turnover and claims of deduction.                                                                                                                                         |
| 2 | <b>Computation of Taxable Turnover:</b> Auditor will help in ensuring that "taxable turnover" on which output tax is payable is computed in legal and proper manner. He will ensure that sales return have been properly adjusted. He will ensure that proper adjustment has been made for any "debit notes" and "credit notes".             |
| 3 | <b>Availment and utilization of VAT credit :</b> Auditor will also help in ensuring that credit has been taken only on eligible inputs and capital goods and that too, after fulfilling the conditions attached thereto. He will ensure that all legal provisions in respect of utilization of credit have also been properly complied with. |

**b. SUBTRACTION METHOD**

In this method the VAT is calculated using the following subtraction equation

**Value Addition = Sale Price - Purchase Price**

Example: Suppose a dealer buys a commodity for Rs. 500/- and resells it for Rs. 700/-. The VAT Percentage applicable to that commodity is 5%.

$$\begin{aligned}\text{Value Addition} &= \text{Sale Price} - \text{Purchase Price} \\ &= (700 - 500) = \text{Rs. } 200/-\end{aligned}$$

$$\begin{aligned}\text{VAT} &= \text{Value Addition} \times \frac{\text{Tax Percentage}}{100} \\ &= \left(200 \times \frac{5}{100}\right) = \text{Rs } 10/-\end{aligned}$$

**Sale Bills under Subtraction Method**

In the above example, for the calculation of VAT amounting to Rs. 10/-, the dealer may prepare a sale bill as follows:-

**Sale Bill**

$$\text{Sale Price} = \text{Rs. } 700/-$$

|             |   |          |
|-------------|---|----------|
| VAT at 5%   | = | Rs. 10/- |
| Total Price | = | Rs.710/- |

Nov – 2009

1. Answer the following:

- What are the different rates under VAT system?
- Under what circumstances registration can be cancelled under VAT?
- Briefly explain the income variant of VAT.
- State with reasons in brief whether the following statement is true or false with reference to the provision of Valued Added Tax: The VAT Rate on sale of Lottery Ticket is 4%.

(2x4 = 8 marks)

a. **Rates of VA T are as follows:** Following are different rates of VAT:

- 4% Category:** Under 4% VAT rate category, there are largest number of goods, common for all States, comprising of items of basic necessities.
- 12.5% Category:** The remaining commodities, common for all the States, fall under the general VAT rate of 12.5%.
- 1% Category:** The special rate of 1% is meant for precious stones, bullion, gold and silver ornaments etc.
- Non - VAT Goods:** Petrol, diesel, ATF, other motor spirit, liquor and lottery tickets are kept out VAT.

b. **Cancellation of Registration:** The registration can be cancelled on:

- Discontinuance of business; or
- Disposal (sale) of business; or
- Transfer of business to a new location; or

c. The income variant of VAT allows for deductions on purchases of raw materials and components as we depreciation on capital goods. This method provides incentives to classify purchases as current expenditure to claim set-off. In practice, however, there are many difficulties connected with the specification of method of measuring depreciation, which basically depends on the life on an asset.

d. **LOTTERY TICKETS** are not-Vatable goods, thus, given statement is false.

2. Mr. X, a manufacturer sells goods to Mr. B, a distributor for Rs. 2,000 (excluding of VAT). Mr. B sells goods to Mr. K, a wholesale dealer for Rs. 2,400. The wholesale dealer sells the goods to a retailer for Rs. 3,000 who ultimately sells to the consumers for Rs. 4,000. Compute the Tax

**Liability, input credit availed and payable by the manufacturer, distributor, wholesale dealer and retailer under Invoice method assuming rate @ 12.5%. (8 marks)**

**3. Answer the following:**

- i. What are the different stages of VAT? Can it be said that entire burden falls on the final consumer?
- ii. Discuss filing of Return under VAT.
- iii. List out six purchases which are not eligible for input tax credit. (3 x 3 = 9 marks)

**i. DIFFERENT STAGES OF VAT**

The Value Added Tax (VAT) is a multistage tax levied as a proportion of the value added (i.e. sales minus purchase) which is equivalent to wages plus interest, other costs and profits.

Note: The rate of tax is assumed to be 12.5 per cent on the transaction relating to goods manufactured by A.

For a manufacturer A, inputs are products X and product Y which are purchased from a primary producer. In practice, even these producers use inputs. For examples, a farmer would use seeds, feeds, fertilizer, pesticides, etc. However, for this example their VAT impact is not considered. B is a wholesaler and C is a retailer.

The inputs X and Y are purchased at Rs. 100 each on which tax is paid @ 12.5% and 4% respectively. The manufacture A would, therefore, 'fake the credit for tax paid by him for the use of such inputs. The input price of Rs. 200 plus tax would include wages, salaries and other manufacturing expenses. To all this, he would also add his own profit. Assuming that after the addition of all these costs his sale price is Rs. 300, the gross tax (at the rate of 12.5 per cent) would be Rs. 37.50. As manufacture A has already paid tax on Rs. 200, he would get credit for this tax (i.e.  $12.50 + 4 = 16.50$ ). Therefore, his net VAT liability would be Rs. 37.50 minus Rs. 16.50. Thus, manufacture A would pay Rs. 21 only (because of this he would take the cost of his inputs to be only Rs. 200)

Similarly, the sale price of Rs. 400 fixed by wholesaler B would have net VAT liability of Rs. 12.50 ( $\text{Rs. } 50 - 37.50 = \text{Rs. } 12.50$ ) and the sale price of Rs. 500 by Retailer C would also have net VAT liability of Rs. 12.50 ( $\text{Rs. } 62.50 - 50 = \text{Rs. } 12.50$ ). Thus, VAT is collected at each stage of production and distribution process, and in principle, its entire burden falls on the final consumer, who does not get any tax credit thus, VAT is a broad-based tax covering the value added to each commodity by parties during the various stages of production and distribution.

**ii. VAT RETURN**

1. Simplified form for VAT returns have been notified.
2. Returns are to be filed monthly/ quarterly/ annually as per the provisions of the State Acts / Rules.
3. Returns will be accompanied with the payment challans.

**iii. INELIGIBLE PURCHASES:** Input tax credit is not admissible on following purchases:



1. Goods purchased from other states (i.e., through Inter-State Sale - on which CST has been paid)
  2. Goods purchased from outside India (i.e., imported goods - as Special CVD paid to CG)
  3. Goods purchased from Unregistered Dealer;
  4. Goods purchased without having invoice in support;
  5. Good purchased but invoice is not showing the amount of VAT separately;
  6. Goods purchased from registered dealer who has opted for composition scheme under State VAT Act;
  7. Goods purchased for being utilized in manufacture of exempted goods;
  8. Good purchased for personal consumption/use;
4. **Mr. Goenka, a trader selling raw materials to a manufacturer of finished products. He imports his stock in trade as well as purchases the same from the local markets. Following transactions took place during financial year 2009-2010. Calculate the VAT and invoice value charged by him to a manufacturer. Assume the rate of VAT @ 12.50%.**
- |                                                                                                                |          |
|----------------------------------------------------------------------------------------------------------------|----------|
| (1) Cost of imported materials (from other State) excluding tax                                                | 1,00,000 |
| (2) Cost of local materials including VAT                                                                      | 2,25,000 |
| (3) Other expenditure includes storage, transport, interest and loading and unloading and profit earned by him | 87,500   |

## SERVICE TAX EXAMINATION QUESTIONS

May 2007

**1. Answer the following :**

- a. Is an unincorporated association liable to pay any service tax?
- b. Is e-filing of service tax return permitted?
- c. Should service tax be paid even if not collected from then client or service receiver?
- d. Will the payment to a hotelier of Rs.10,000 on behalf of an architect by a service receiver be included in the value of taxable services? **(2 X 4 = 8 marks)**

- a. An incorporated association does not have identity independent of its members. Thus, any service provided by it to its members cannot attract any service tax liability as any service provided by one person to another person. However, under Service Tax legislation, a legal presumption has been created. An explanation has been added to Sec 65(105) which defines taxable service. The said explanation provides that taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.
- b. The e-filing is a facility for electronic filing of Service Tax Returns through the Internet. Rule 7 of Service Tax Rules, 1994 contains provisions relating to filing of service tax returns. Though e-filing of return is not mandatory in any case, yet if anybody wishes to opt for e-filing then he can do so.
- c. The liability to pay service tax remains with the service provider in the current scenario. Failure to realize (or even 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 CO.
- d. Valuation of taxable service is governed by Sec 67 of FA, 1994. Sec 67 provides that taxable value shall be "gross amount charged for the service". Rule 6 of Service Tax Valuation Rules, 2006 provides that any costs or charges incurred by the service provider in course of providing the service shall be treated to be a part of consideration of service and shall form part of taxable value. This payment shall form part of taxable value even if such payment is charged separately.

**2. A Ltd. has agreed to render services to Mr. Guru. The following are the chronological events:**

**Contract for services entered into on 31/8/2009**

**Advance received in September 2009**

**Rs. 60,000**

**Total value of services, billed in February 2010**

**Rs. 2,10,000**

**Above includes non-taxable services of**

**Rs. 70,000**

**Balance amount is received in March 2010**

**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.**

**(6 marks)**

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. 2009:** 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  $[(60,000 * 1.40.000 / 2,10,000) * 10.30\%]$  by 5<sup>th</sup> Oct. 2009.

**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, 2010:** 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 31<sup>st</sup> March itself. The amount payable shall be Rs.  $(80,000 * 10.30\%)$ .

**3. Answer the following**

- An assessee who has collected Service Tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability.**
- Can Vignesh & Co., providing services from different locations and billing the client from each location, opt for centralized service tax registration**
- Can it be said that if the taxable service is not capable of ascertainment, the same cannot form part of value of taxable services?**
- In case of import of service, is a recipient of such services in India liable to pay service tax?**

**(3 marks each)**

- Advance received from client, but service contract cancelled:** As per the present system, service tax is payable on receipt basis. Service tax is payable even on advance received towards services which are to be provided in future. In such cases, it is not abnormal that assessee pays service tax on advance received but when it comes to provisioning of services, the assessee is not able to perform the services. In such cases, assessee is allowed to adjust the service tax already paid towards his service tax liability in the future period. Rule 6(3) of Service Tax Rules-1994 allows the assessee to self-adjust subject to condition that the advance received (along with the amount of service tax) has been refunded to the client.
- Centralized Registration:** Under service tax, a service provider is liable to register each premise from where service is provided. However, he has the option of centralized registration also. In case assessee is providing services from different premises but having centralized accounting or billing system, then instead of registering each premise, he can register only the premise where centralized accounting or billing system exists.

Under the situation before us, Vigesh & Co is not having centralized billing system (as it is billing from each location). Even then, it can opt for centralized registration if it is having centralized accounting system. However, if it is not having any centralized accounting system, then it shall register each of its premises.

- c. **Valuation of taxable service:** Sec 67 contains the code for valuation of taxable service. It provides that in a case where service is provided for a consideration but that consideration is not ascertainable, then valuation shall be determined in such manner as prescribed by Service Tax Valuation Rules, 2006.
- d. **Import of Service:** Service tax is payable on any services received in India, even if service is provided by a person from outside India. Sec 66-A of Finance Act, 1994 specifically provides where service is provided by a person from a place outside India and received by a person in India, then such service shall be chargeable to service tax in India. In such cases, recipient of service shall be liable to pay service tax as if he himself has provided the service.

**Nov – 2007**

**1. Answer the following**

- a. **A service provider maintains books of accounts on mercantile basis relating to the taxable services provided by him, will service tax be payable on the accrual basis?**
- b. **What are the documents to be submitted along with the service tax return?**
- c. **What are the due dates for filing service tax returns?**
- d. **Is the service provider allowed to pay service tax on the provisional basis?**

**(2 Marks each)**

**Solution:**

- a. **Payment of Service tax :** Service tax is payable on receipt basis. Service tax becomes payable as and when any payment is received towards value of service tax, whether such payment is received before or after provisioning of service. It shall be noted that service tax shall be payable on cash basis irrespective of the accounting system adopted by the assessee. Thus, irrespective of assessee being maintaining books of accounts on mercantile basis, he shall be liable to pay service tax on cash basis.
- b. **Documents to be submitted alongwith ST Return:** Following documents shall be submitted alongwith ST return:
  - i) Challan (GAR-7) evidencing payment of service tax.
- c. **Due dates for filing ST Returns:** Sec 70 of Finance Act, 1994 (read with Rule 7 of Service Tax Rules, 1994) Specifies the due date for filing of service tax returns. ST Return shall be filed on half-yearly basis. It shall be filed within 25 days.
- d. **Payment of service tax on provisional basis:** Under service tax, assessee is required to pay service tax by making self-assessment. But if for any reason, he is unable to make self-assessment (i.e., not able to compute AV or applicable rate of tax), then he can make a request to AC/DC allowing payment of tax on provisional basis. AC/DC will pass provisional assessment order specifying the amount to be paid provisionally. The amount so paid provisionally shall be subject to adjustment at the time of final assessment.

2. A PARTNERSHIP FIRM gives the following particulars relating to the services provided to various clients by them for the HALF YEAR ENDED 30/9/2009.
- 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 30/9/2009.
  - Amount of Rs. 50000 was received as an advance from XYZ Ltd. on 25/9/2009 to whom the services were to be provided in Oct 2009.
- You are required to work out the taxable value of services and amount of service tax payable.  
(3 marks)

3. Answer the following
- Who is liable to pay service tax in relation to service, provided by a goods transport agency?
  - What are the due dates for payment of service tax? (3 marks each)

**Solution:**

- Generally, service tax is payable by the service provider. However, in certain cases, charge is reversed and some other person is made liable for payment of service tax.

In relation to GTA, person liable for payment of service tax shall be as stated below:

- If either the consignor or the consignee is of "specified category", then GTA shall not be liable for payment of service tax, rather the person who is paying freight to GTA shall be liable to pay service tax to the CG.
- If neither the consignor nor the consignee is of "specified category", then GTA shall be liable for payment of service tax to the CG.

**b. Due dates for the payment of service tax:**

- If the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the CG by the 5<sup>th</sup> of the month immediately following the quarter in which the payments are received, towards the value of taxable services. In case e-payment is made, due date is 6<sup>th</sup>.
- In all other cases service tax received during any calendar month shall be paid to the CG by the 5<sup>th</sup> of the month immediately following the calendar month in which payments are received, towards value of taxable services. In case e-payment is made, due date is 6<sup>th</sup>.
- If the service tax on the value of taxable services is received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the Government by the 31<sup>st</sup> March.

**May – 2008**

- Answer any five of the following:
  - Briefly explain the nature of the service tax.

- b. A particular service has been brought into service tax net with effect from 1/6/2009. Mr. Vignesh has provided this service on 20/5/2009, the payment for the same was received on 10/6/2009. Is the service tax payable on the same?
- c. 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?
- d. Who are the persons liable to file service tax return? (2 marks each)

**Solution:**

- a. **Nature of Service Tax :** Service tax is in nature of indirect tax. It is levied on services as against excise duty and sales tax which is levied on goods. Service tax is not a tax on profession / trade, rather it is a tax on services itself. Thus, essentially it is a tax on services.
  - b. **Payment of Service Tax :** Taxable event for levy of 'service tax is rendering of service and not raising of invoice or receipt of payment. Thus, levy of service tax is decided with reference to date of rendering of service, though it is payable only when payment is received. In the instant case, service was non-taxable when it was provided (May, 2009). Hence, rendering of such service no service tax stands attracted. Thus, no service tax is payable on value of such service, even if at the time of receipt of payment the service has become taxable.
  - c. **Amount of ST collected in excess by service provider :** Sec 73-A of Finance Act, 1994 provides-that where a service provider has collected any amount in excess of the service tax paid or payable representing such surplus amount as service tax, then service provider shall deposit the surplus amount so collected to the credit of CG. Thus, Mr Saravanan shall deposit the amount of Rs 15,000 (which he has collected mistakenly from the client) to the credit of CG.
  - d. **Person liable to file ST Return :** Under service tax, following are the persons who shall file service tax return:
    - i) Service provider who is liable to pay service tax (i.e., when service is not exempted);
    - ii) Service receiver who has been made liable to pay service tax under "Reverse Charge mechanism";
    - iii) Service provider who is providing exempted services but who has provided services of value in excess of Rs 9 lakhs;
    - iv) Input Service Distributor (ISD) who distributes cenvat credit in terms of Cenvat Credit Rules, 2004.
2. M/s Priya rendered taxable services to a client. A bill of Rs. 40000 was raised on 29/4/2009. Rs. 15000 was received from a client on 1/5/2009 and the balance on 23/5/2009. 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? (2+4 marks)

**Solution:**

- 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<sup>th</sup> of July, 2009 (presuming payment is not e-payment). It has realized entire bill (payment) in the quarter ending on 30<sup>th</sup> 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  $(40,000 \times 10.30 / 110.30)$ .

**3. Answer the following:**

- a. **Briefly explain the charge of service tax.**  
b. **Mr. Vasudevan has rendered freely, a service to a client which is taxable, but has not charged or received any fee from a client. Is service tax payable on such free services?**

**(3 marks each)**

**Solution :**

- a. **Charge of service tax :** Service tax is charged in terms of Finance Act, 1994. Sec 66 of the Finance Act, 1994 is the charging section for levy of service tax. Following are the salient features relating to charge of service tax:
- i) It is levied on selected services which are referred as "taxable services" as defined u/s 65(105) of FA, 1994.
  - ii) Service tax is levied @ 10.30% of value of taxable service. [Prior to 24<sup>th</sup> Feb, 2009, the applicable rate of service tax was 12.36%. From 24<sup>th</sup> Feb, 2009 the rate has been reduced to 10.30%]
  - iii) The taxable event for levy of service tax is "rendering / provisioning of taxable service". However, service tax is payable to CG only when payment is received from the client.
- b. **Rendering of taxable service rendered without any consideration :** Free service is outside the purview of service tax. Sec 67, which deals with the valuation of taxable service, provides valuation mechanism only when services are rendered for a consideration. Services rendered without any consideration (i.e., free service) shall not attract any service tax liability. Thus, in the instant case, Mr. Vasudevan shall not be liable to pay service tax on services rendered without any consideration.

**Nov – 2008**

**1. Answer any five of the following:**

- a. **Explain as to HOW and WHEN the amendments made in the finance bill in respect of the service tax matters come into the force.**
- b. **Who is responsible to pay service tax when the recipient of sponsorship services is located outside India?**
- c. **Whether free services after the sale of motor vehicle given by the authorized dealer for which they are reimbursed by the vehicle manufacturer are subject to the service tax?**
- d. **Who is liable to make E-payment of service tax?**



- e. **Whether life insurer carrying on the life insurance business has option to calculate service tax at some different rate?**

(2 X 5 = 10 marks)

**Solution:**

- a. **How amendments come into force :** The law relating to service tax is not governed by any Service Tax Act, but it is governed by Chapter V of Finance Act 1994. Any amendments in the basic provisions as contained in Finance Act, 1994 (Chapter V) are made by presenting a bill to that effect before the Parliament. The bill containing the amendment is then approved by both the Houses of Parliament and assent of president is received. When Finance Bill is approved by the president then it becomes Finance Act and the corresponding changes are made every year to the Finance Act 1994.

**When amendments come into force :** The amendments so made come into effect from the date president assent is received and act is made. However, generally, tax on the services is given effect from a later date as notified by CBEC.

- b. **Sponsorship Services :** In case of sponsorship, reverse charge mechanism is applicable, i.e., service provider is not liable for payment of service tax rather the service recipient is liable for payment of service tax to the Govt. However, that reverse charge mechanism is applicable only when the service recipient is in India. In the given situation, since the service recipient is outside India reverse charge mechanism is not applicable; hence, service provider is liable for payment of service tax.
- c. **Free Services :** Free service is outside the purview of service tax. Sec 67, which deals with the valuation of taxable service, provides valuation mechanism only when services are rendered for a consideration. Services rendered without any consideration (i.e., free service) shall not attract any service tax liability.

In case of the authorized dealer who has provided services to client but has not charged anything from the client, but he is fully reimbursed by the manufacturer, he cannot be said to have provided free service. The reason being that in this case services are free for the client but the service provider has got the remuneration from the manufacturer so in this sense it is not free services and service tax is liable to be paid.

- d. **E-payment of service tax :** An assessee who has paid service tax of Rs. 10 lakhs or more in the preceding financial year or has already paid service tax Of Rs. 10 Lakhs or more in the current financial year has to compulsorily deposit the service tax liable to be paid by him electronically, through internet banking.
- e. **Life Insurer Carrying Life Insurance Business :** As per the normal provision, life insurer is liable to pay service tax @ 10.30% (w.e.f. 24<sup>th</sup> Feb, 2009) on that portion of life insurance premium which represents the risk component in the total premium. However, he has been provided an optional method of payment of service tax. As per that option, he can pay an amount calculated @ 1% of the total premium charged by him towards the discharge of his service tax liability (EC & SHEC shall be payable extra). However, this option is not available in case of pure-risk policy.

2.

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- a. Mr. X is the owner of the property had entered into an agreement with a bank. The agreement was entered into on 1/4/2009 to give the ground floor of the property on monthly rent of Rs. 75000. The bank had taken the property for the commercial use. Explain whether Mr. X is liable to pay service tax on the transaction with the bank?

(3 marks)

The service of "renting of immovable property" is taxable service covered under provision of service tax. It is a "taxable service" within the meaning of Sec 65(105) of Finance Act, 1994. But at the same time, CG has issued an exemption (E/N 6/2005) exempting service provider from payment of service tax on his first receipts upto 10 lakhs. In the instant situation, rent of April to March 2009 is Rs. 9 lakhs, which is less than Rs. 10 lakhs therefore Mr. X will get basic exemption and no service tax shall be payable by him.

- b. 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.

(3 marks)

**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 service tax on quarterly basis. Thus, for quarter ending on March, service tax shall be payable by 31<sup>st</sup> 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 assessee that shall be treated as cum-service tax. Thus, the amount of service tax shall be calculated as follows:

$$\text{ST Payable} - [1,68,540 \times 10.30 / 110.30] = \text{Rs. } 15,739/-$$

**Due Date of Payment of Service Tax:** Since this amount has been received in the month of March so this amount should be paid to the credit of the CG upto 31/3/2010. (whether payment is e-payment or manual payment)

3. Answer any three of the following:

- a. Can service tax return be revised by a person?  
b. What are the due dates for the payment of service tax?

(3 X 3 marks)

**Solution:**

- a. Yes, return of the service tax can be revised by the assessee.

- ✓ Rule 6 (7-B) of Service Tax Rules, 1994 permits an assessee to revise his service tax return to correct a mistake or omission, within a period of 90 days from the date of submission of original return.
  - ✓ The revised return shall also be filed in Form ST-3 and in triplicate.
- b. Please refer Nov 2007 - Q3(b)

## June – 2009

### 1. Answer the following:

- a. 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?
- b. Whether service tax return can be furnished after the due date?
- c. How can the excess payment of service tax be adjusted?
- d. Discuss the accountability of an "input service distributor" who may not be liable to pay service tax.
- e. When does a small service provider require to register under the Service Tax Act, but not liable to collect and pay Service Tax? (2 Marks each)

- a. The liability to pay service tax remains with the service provider in the current scenario. Failure to charge service tax doesn't negate<sup>(cancel)</sup> 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:

$$ST = (\text{Gross Amount Charged}) * 10.30 / 110.30$$

- b. Sec 7.0 of FA. 1994 contains the provisions relating to filing of ST returns. It permits filing of ST return belated subject to payment of "Late fee". The late fee payable shall be as stated below;
1. Delay upto 15 days: Fess Rs. 500.
  2. Delay beyond 15 days but upto 30 days: Fees Rs. 1000.
  3. Delay is beyond 30 days: Fees (Rs. 1000 + Rs. 100 for every day from the 31st day till the date of furnishing of return) but subject to the maximum, of Rs. 2000.
- c. **Adjustment of Excessive payment of service tag** : Under service tax law, a unique facility of adjustment of ST paid in excess has been provided under certain situations. The conditions attached with the adjustment are different in different situations as stated below:

|   |                                                                                                                                                                                                                                          |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <p>For any month or quarter, as the case may be, assessee can pay ST in excess of his actual liability.</p> <p>The ST so paid in excess can be adjusted against his ST liability for the future liability.</p> <p><b>Conditions:</b></p> |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <p>i. The assessee shall intimate the details of the amount of ST paid in advance, to the jurisdictional SCE within 15 days of such payment;</p> <p>ii. The assessee shall indicate the details of the advance, payment made, and its adjustment if any in the subsequent ST return.</p> <p style="text-align: right;">[Rule 6(1-A) of STR? 1994]</p> <p><b>Illustration:</b> Mr. A has received Rs 30 lakhs for the quarter ending on 30<sup>th</sup> June, 2009. Legally, he is liable to pay ST only in relation to receipts of Rs 30 lakhs. But if assessee wishes then he can pay ST on Rs 50 lakhs (Rs 20 lakhs not received but he can still pay voluntarily on this). If he so pays, then he shall inform CEO that he has paid ST in advance which he intends to adjust subsequently.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2 | <p>Whenever assessee is unable to determine his ST liability (for any reason whatsoever), he has the facility of provisional payment of duty. For that he can approach AC/DC. However, if assessee is unable to determine his ST liability on accounts of reasons other than interpretation of law, taxability, classification, valuation or applicability of any exemption notification, then assessee can pay ST on a higher side (safer side) and if subsequently, the service tax paid is found out to be in excess, then excess amount of the ST shall be allowed to be adjusted against ST liability of future period.</p> <p><b>Condition:</b></p> <p>i. The details and reasons for adjustment shall be intimated to the jurisdictional SCE within 15 days from the date of adjustment.</p> <p style="text-align: right;">[Rule 6(4-A) &amp; (4-B) of STR, 1994]</p> <p><b>Illustration:</b> Mr. A is maintaining computerized records. Just before the quarter ending on 30<sup>th</sup> June, 2009, his computer got crushed which has been sent by him for data recovery. In such case, instead of opting for provisional assessment, he can make payment of ST in excess (by estimation). Such excess payment shall be allowed to be adjusted subsequently.</p> |
| 3 | <p>Where in relation to renting of immovable property, the service provider has paid ST in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, on account of non-availment of deduction of property tax paid (in terms of E/N 24/2007), the assessee may adjust such excess amount paid by him against his future ST liability.</p> <p><b>Condition:</b></p> <p>i. Such adjustment can be claimed within 1 year of payment of excess ST.</p> <p>ii. The details and reasons for adjustment shall be intimated to the jurisdictional SCE within 15 days from the date of adjustment.</p> <p style="text-align: right;">[Rule 6(4-C) of STR, 1994]</p> <p><b>Illustration:</b> XYZ Ltd has rented his immovable property to Mr. A for a monthly rental of Rs 2,00,000/- XYZ Ltd. had paid property tax of Rs 2,40,000 for the previous year. While computing TV in hands of XYZ Ltd, deduction of proportionate property tax shall be allowed. Thus, ST need to be paid on Rs (2,00,000 - 20,000). In case XYZ Ltd had paid ST on entire Rs 2,00,000 (without claiming any deduction of proportionate property tax.), then the excess ST so paid shall be allowed to be adjusted subsequently.</p>             |
| 4 | <p>Where an assessee has received any advance towards taxable service and has paid ST thereon, but subsequently the contract is cancelled and service is not actually</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>rendered, then the ST already paid shall be allowed to be adjusted towards his future ST liability.</p> <p><b>Condition:</b></p> <p>(i) The advance has been refunded to the service receiver.</p> <p style="text-align: right;">[Rule 6(4-C) of STR, 1994]</p> <p><b>Illustration:</b> A service provider receives an advance of Rs 1,000 on which he pays a service tax of Rs 93/- <math>[1,000 \times 10.30/110.30]</math>. However, later on he does not provide this service and refunds the amount to person from whom the advance was received. He can in this case adjust the amount of Rs 93/- in any of his future liability of service tax.</p> |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- d. **Accountability of INPUT SERVICE DISTRIBUTOR** : An ISD is an office of the service provider which receives invoices from the input service provider and then distributes that credit to the premise of service provider. An ISD performs the function of distributing the credit of services of which invoices are received in the office and not in the premise of service provider. Since it distributes the credit, it has been provided in Service Tax (Registration of Special Category of Person) Rules, 2005 that it needs to take service tax registration. Further, ISD shall also file "return" showing the credit availed and credit distributed by it [Sec 70(2) of FA, 1994]
- e. **Registration of Small Service Provider** : A small service provider (the one who is availing the benefit of exemption notification 6/2005) is entitled to exemption from ST on initial receipts of Rs 10 lakhs. Thus, it is not liable to pay ST on first 10 lakhs. However, still it is liable to take registration once it crosses the limit of 9 lakhs [as provided under Rule 5 of ST (Registration of Special Category of Person) Rules, 2005]. It shall apply for registration within 30 days of crossing the limit of Rs 9 lakhs.

2. **An unregistered "Service provider" provides following details in respect of taxable services provided during the Financial Year 2009-10 :**

| Date       | Particulars                                                               | Amount   |
|------------|---------------------------------------------------------------------------|----------|
| 30.6.2009  | Advance received from a customer                                          | 1,00,000 |
| 30.9.2009  | Part payment received against a bill of Rs. 9,50,000 raised on a customer | 5,00,000 |
| 31.12.2009 | Money received against taxable services provided during December, 08      | 3,00,000 |
| 31.1.2010  | Taxable services rendered during January, 09                              | 1,00,000 |
| 31.3.2010  | Taxable service provided during March, 10                                 | 2,00,000 |

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, 2009. Compute the service tax liability of service provider for the year 2008-09 considering the rate of service tax @ 12.36%. (3 marks)

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 ST 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%                                            | <u>20,600</u> |

### 3. Answer the following :

a. How the value of taxable services determined when the consideration against taxable services is-received in other than monetary terms?

b. What are the sources of Service Tax Law? (3 marks each)

a. **Valuation of Service for which non-monetary consideration is received** : Rule 3 of Service Tax Valuation Rules, 2006 provides for valuation of service rendered for non-monetary-consideration. It provides that following 2 methods shall be used in the order as stated below:

**Method - 1** : Taxable value of such service shall be taken as "Gross Amount charged" for providing similar service to another person.

**Method – 2** : If valuation under method - 1 is not possible, then "monetary equivalent of such non-monetary consideration" shall be determined and that shall be taken as taxable value of such service.

b. **Sources of Service Tax Law** : Law of service tax is governed by the following:

1. **THE FINANCE ACT 1994** : The law relating to service tax is not governed by any service tax act, but by Chapter V of Finance Act 1994.

2. **RULES ON SERVICE TAX** : Central Government has formulated certain set of rules for carrying out the provisions of service tax. Among them, important one are:

- a. Service Tax Rules, 1994
- b. Service Tax (Determination of Value) Rules, 2006
- c. Cenvat Credit Rules, 2004
- d. Service Tax (Registration Of Special Category Of Persons) Rules, 2005
- e. Taxation of Service (Provided From Outside India and Received In India) Rules, 2006.
- f. Export Of Service Rules, 2005

3. **CIRCULARS (Orders / Instructions / Directions)** : CBEC is entitled to issue circulars clarifying the service tax matters. These circulars are also useful in the effective implementation of service tax.

4. **JUDICIAL DECISIONS** : The Rulings of courts becomes law and have to be followed by all. The ruling of Supreme Court is binding on all courts and service tax authorities.

Nov. – 2009

**1. Answer the following:**

- a. **Should Service Tax be paid even, if it is not collected from the client or Service Receiver?**
- b. **Mr. Raju is a multiple service provider and files only a single return. State with reasons whether he can do so?**
- c. **Explain the term "Vocational Training Institute" under the provisions of Service Tax.**
- d. **State with reason in brief whether the following statement is TRUE or FALSE with reference to the provisions of Service Tax:**

**Mr. Salim, an architect has received the fees of Rs. 4,48,500 after the deduction of Income Tax of Rs. 51,500. The Service Tax is payable on Rs. 4,48,500. (2 Marks each)**

- a. The liability to pay service tax remains with the service provider in the case where service tax is not collected from the client. Failure to realize service tax doesn't negate his statutory liability. In the event of any such failure, the amounts recovered from the client in lieu of having rendered the service 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 Central Government.
- b. A service provider providing multiple services is required to take only one registration. Thus, such service provider can file a single return giving details of all such services in the return.
- c. VOCATIONAL TRAINING INSTITUTE means a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching. Taxable services provided by a vocational training institute to any person are exempt from service tax.
- d. **The statement is false.** Service tax is payable on "gross amount charged" by the service provider for the services provided or to be provided- In this case gross amount charged by Mr. Salim, an architect has received the fees of Rs. 4,48,500 after the deduction of Income Tax of Rs. 51,500. Amount of Rs. 4,48,500 is the net amount and not the gross amount. Therefore service tax shall not be payable on Rs. 4,48,500 but it shall be payable on the gross amount i.e. Rs. 5,00,000.

**2. Answer the following;**

- i. **Whether export service provided by Service Provider is excluded for the purpose of Payment of Service Tax?**
- ii. **List the documents to be submitted along with the First Service Tax Return.**
- iii. **What is the due date for payment in case of e-payment of Service Tax?**

**(3x3 = 9 marks)**

- i. Service exported out of India in terms of Export of Service Rules, 2005 shall not be chargeable to service tax [Rule 4 of Export of Service Rules, 2005]. However, to be eligible for that benefit the export criteria as laid down in Rule 3 of Export of Service Rules shall be fully met.

- ii. The following documents should be attached alongwith the first ST return:
  - a. "List of Records" maintained by assessee. This list shall include:
    - i. All the records prepared or maintained by the assessee for accounting of transactions in regard to,
      - (a) Providing of any output, service (taxable or exempted);
      - (b) Cenvat credit on input, capital goods, input services;
    - ii. All other financial records maintained by him in the normal course of business;
  - b. Copy of Challan [GAR-7];
- iii. The due dates for e-payment of service tax are as follows:
  - a. Individual Proprietorship Firm and Partnership shall pay service tax on quarterly basis within 6 days of immediately following month.
  - b. Other assesses shall pay service tax on monthly basis within 6 days of immediately following month.

However, for the month of March, or quarter ending on month of March, service tax shall be paid by 31<sup>st</sup> March itself.

- 3. 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 31/1/2010. All three transactions took place during financial year 2009-2010. She seeks your advice about her liability towards value of taxable service and the service tax payable by her.**

Ms. Priyanka is liable for service tax in financial year 2009-2010 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.

- 4.**
- a. **M/s Amarpali, a registered service provider did not render any services during the financial year 2009-2010. Whether she is required to file service tax return?**
  - b. **Mr. Bharat is a registered service provider. He transfers his business to Mr. Rakesh on 31/7/2009. Explain the requirement to be complied with by Mr. Bharat and Mr. Rakesh on such transfer under the provisions of Service Tax.**
  - c. **Write the provisions on liability for payment of Service tax on services provided abroad.**
  - d. **Which Act and Rule governs the levy of Service tax in India?**
- a. A registered provider is required to file service tax return even if no taxable service was rendered during the Financial Year. Since the value of service provided in such case is zero, Nil service tax return shall be filed.

- b. **Requirement to be complied with Mr. Bharath, the transferor :** He shall be required to surrender his registration certificate. Before accepting his surrender, CEO shall ensure that no dues are outstanding from him.  
**Requirement to be complied with Mr. Rakesh, the transferee :** He shall be required to obtain fresh registration certificate. .
- c. Services provided abroad shall not attract service tax liability. Service provider rendering services abroad shall have following two options available with him :  
**Option-1:** He can export the services without paying any service tax on it.  
**Option-2:** He can export the services upon paying service tax on it and then claim rebate of same.
- d. **Governing Act:** Finance Act, 1994 is the governing Act for levy of service tax. Chapter- V of the Finance Act, 1994 contains the related provisions.  
**Governing Rules:** Service Tax Rules, 1994 are the governing provision for levy of service tax.