

Valuation of Taxable Service

Question 1

Will the payment to a hotelier of ₹ 10,000 on behalf of an architect by a service receiver be included in the value of taxable services?

Answer

Service tax chargeable on any taxable service is on the basis of gross amount charged by service provider for such service provided or to be provided by him. It is not necessary that the service receiver should pay the consideration only to the service provider; any money paid to the third party is also includible. Hence, the hotel bill met by the client would be includible in the value of taxable services.

Question 2

Answer the following questions:

- (a) Can it be said that if the taxable service is not capable of ascertainment, the same cannot form part of value of taxable services?*
- (b) How is the value of taxable services determined when the consideration against taxable services is received in other than monetary terms?*

Answer

- (a)** No, it cannot be said so. The provisions of section 67 states clearly that if the consideration for a taxable service is not ascertainable, the value of such service shall be the amount as may be determined in the manner prescribed under the Service Tax (Determination of Value) Rules, 2006.
- (b)** Section 67 of the Finance Act, 1994 provides that if the consideration for a taxable service is not wholly or partly in terms of money, then the value of such service shall be such amount in money, with the addition of service tax charged, is equivalent to the consideration.

Question 3

Ms. Priya rendered a taxable service to a client. A bill for ₹ 40,000 was raised on 29.4.2012; ₹ 15,000 was received from the client on 1.5.2012 and the balance on 23.5.2012. 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 service and the service tax payable?

Answer

Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver. Hence, Ms. Priya is liable to pay service tax.

However, sometimes it may happen that the assessee is not able to charge service tax because of the nature of service or he fails to recover the service tax from the client / customer as he is not aware that his services are taxable. Hence, in these cases, the amount recovered from the client in lieu of having rendered the service will be taken to be inclusive of service tax and accordingly tax payable will be calculated by making back calculations.

The rates of service tax payable are:

Basic rate		12%
Education cess (2% of 12%)	=	0.24%
Secondary and higher education cess (1% of 12%)	=	0.12%
Effective rate of service tax	=	12.36%

As per Rule 3 of point of taxation Rules, 2011,

The point of taxation shall be -

(a) the time when the invoice for the service provided/to be provided is issued.

However, in case the invoice is not issued within 30 days of the completion of the provision of the service, the point of taxation shall be date of such completion.

(b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

$$\text{Value of taxable service} = \frac{\text{Gross amount charged}}{(100 + \text{Effective rate})} \times 100$$

$$\text{Value of taxable service} = \frac{40,000 \times 100}{112.36} = ₹ 35,600$$

$$\text{Service tax payable} = \frac{40,000 \times 12.36}{112.36} = ₹ 4,400$$

Question 4

Ms. Priyanka, a proprietress of Royal Security Agency received ₹ 1,00,000 by an account payee cheque as advance while signing a contract for providing taxable service. She received

3.3 Service Tax & VAT

₹ 5,00,000 by credit card while providing the service and another ₹ 5,00,000 by a pay order after completion of service on January 31, 2013. All three transactions took place during financial year 2012-13. She seeks your advice about her liability towards value of taxable service and the service tax payable by her. The amount of service tax has been charged separately.

Answer

Computation of taxable service of Ms. Priyanka for financial year 2012-13

Particulars	₹
Advance received by an account payee cheque	1,00,000
Amount received while providing service through credit card	5,00,000
Amount received on completion of service by a pay order	<u>5,00,000</u>
Value of taxable service	<u>11,00,000</u>

Calculation of service tax liability

Particulars	₹
Service tax @12% on ₹ 11,00,000	1,32,000
Add: (i) Education cess @ 2% on service tax	2,640
Add: (ii) Secondary and higher education cess @ 1% on service tax	<u>1,320</u>
Total service tax payable	<u>1,35,960</u>

Notes:

1. Money means legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument but shall not include any currency that is held for its numismatic value
2. Gross amount charged includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment

Question 5

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 ₹ 4,48,500 after the deduction of income-tax of ₹ 51,500. Service tax will be payable on ₹ 4,48,500.

Answer

False: As the charge of the service tax is on the services provided, the gross receipts are to be considered for tax calculation. Hence, service tax will be payable on the gross fee of ₹ 5 lakh.

Question 6

Pareesh & Co., is a partnership firm engaged in the business of recruitment and supply of labourers. The firm, which had rendered taxable services to the tune of ₹ 20.2 lacs in the financial year 2011-12, furnishes the following details pertaining to the half year ended on 30.9.2012 :

		(₹)
(i)	Amounts collected from companies for pre-recruitment screening	2,50,000
(ii)	Amounts collected from companies for recruitment of Permanent staff	3,00,000
	Temporary staff	4,00,000
(iii)	Advances received from prospective employers for conducting campus interviews in colleges	1,00,000

Wherever applicable, service tax has been charged separately and received from clients. Compute the value of taxable services rendered and the service tax payable by the assessee for the relevant half year.

Answer**Computation of value of taxable services and service tax payable by M/s Pareesh & Co.:-**

Particulars	Amount of taxable services (₹)	Amount of service tax (₹)
Amounts collected from companies for pre-recruitment screening	2,50,000	30,900
Amounts collected from companies for recruitment of permanent staff	3,00,000	37,080
Amounts collected from companies for recruitment of temporary staff	4,00,000	49,440
Advances received from prospective employers for conducting campus interview in colleges (Note – 1)	<u>89,000</u>	<u>11,000</u>
Total	<u>10,39,000</u>	<u>1,28,420</u>

3.5 Service Tax & VAT

Notes:

1. Amounts received as advance are also liable to service tax. Service tax on advance has been calculated on the presumption that the same is inclusive of service tax $\left[\frac{1,00,000 \times 12.36}{112.36} \right]$.
2. Since the value of taxable services rendered in the preceding year is more than ₹ 10 lakh (i.e. ₹ 20.2 lakh), the assessee is not a small service provider. Hence, it is not eligible for the exemption available to the small service provider.

Question 7

During the year ended 31.3.2012, Kohli & Co., running a coaching centre, has collected a sum of ₹ 10.2 lacs as service tax, ₹ 70,000 was met through Cenvat credit and the balance was paid by cheques on various dates. The details pertaining to the quarter ended 30.6.2012 are as under:

Particulars	Amount (₹)
Value of free coaching rendered	20,000
Coaching fees collected from students (Service tax collected separately)	14,50,000
Advance received from a college for coaching their students, on 30.6.2012. However, no coaching was conducted and the money was returned on 12.4.2013	3,00,000

Determine the service tax liability for the quarter and indicate the date by which the service tax has to be remitted by the assessee.

Answer

Computation of service tax liability of Kohli & Co. for the quarter ended 30.06.2012:-

Particulars	Amount of service tax (₹)
Free coaching rendered	Nil
Coaching fees collected from students $\left[\frac{14,50,000 \times 12.36}{100} \right]$	1,79,220
Advance received from a college for coaching their students	<u>33,001</u>
Total service tax liability for the quarter ended 30.06.2012	<u>2,12,221</u>

Notes:

1. Free coaching is not exigible to service tax
2. Coaching fees collected from students will be liable to service tax @ 12.36%.

3. Advance receipt is chargeable to service tax. It is immaterial that no coaching was conducted and the money was returned on 12.4.2013. Advance would be chargeable to service tax in the quarter ended 30.06.2012. Advance has been assumed to be inclusive of service tax $\left[\frac{3,00,000 \times 12.36}{112.36} \right]$

During the preceding financial year, the service tax liability met by the assessee, inclusive of CENVAT credit availed was more than ₹ 10 lakh. Hence, during the current financial year, for all quarters, payment of service tax will have to be made electronically. Therefore, the last date for making the payment of service tax by Kohli & Co. (non-corporate assessee) for the quarter ended 30.06.2012 is 6th July, 2012.

Question 8

How will a taxable service be valued when the consideration thereof is not wholly or partly in terms of money?

Answer

As per section 67(2) of the Finance Act, 1994, if the consideration for a taxable service is not wholly or partly in terms of money, then the value of such service shall be such amount in money, with the addition of service tax charged, is equivalent to the consideration.

In other words, where the service rendered is for a consideration not wholly or partly consisting of money the value of the taxable service is equivalent to the total value of the consideration. However, the total of such money and non-money values of the consideration has to be treated as inclusive of the service tax payable thereon.

Question 9

ABC Private Ltd., is engaged in providing a taxable service. For the month of January 2013, its gross receipts were ₹ 18,00,000. The break-up of these receipts are as follows:

Month in which services are performed	Receipt (₹)
July, 2012 (includes ₹ 1,00,000 for the services in relating to betting)	4,00,000
August, 2012 (includes ₹ 1,25,000 for the services rendered within the Indian territorial waters)	3,00,000
January, 2013 (includes ₹ 1,75,000 for services rendered to its associated enterprise)	5,00,000
February, 2013 (includes ₹ 1,50,000 for services rendered in the State of Jammu & Kashmir)	6,00,000

In the financial year 2011-12, ABC Private Ltd., had paid ₹ 2,06,000 as service tax (@ 10.3%). State the amount of service tax payable; for the month of January, 2013.

3.7 Service Tax & VAT

Answer

Computation of service tax payable by ABC private Ltd. for the month of January, 2013

Particulars	₹
Services performed in July, 2012 [Refer Note 1]	3,00,000
Services performed in August, 2012 [Refer Note 2]	3,00,000
Services performed in January, 2013 [Refer Note 3]	5,00,000
Services performed in February, 2013 [Refer Note 4]	<u>4,50,000</u>
Total taxable services including service tax	15,50,000
Service tax (including 3% education cesses) payable on above, rounded off [Refer Note 5]	1,70,506

Notes:

1. Services in relation to betting is included in the negative list of services. Hence, it is not taxable.
2. Levy of service tax extends to whole of India excluding Jammu and Kashmir and India includes Indian territorial waters. Hence, services rendered within Indian territorial waters would be liable to service tax.
3. Services rendered to associated enterprise are liable to service tax.
4. Levy of service tax extends to whole of India excluding Jammu and Kashmir. Hence, services rendered in Jammu and Kashmir would not be liable to service tax.
5. As the particulars relate to gross receipts, the same are taken to be inclusive of service tax and hence service tax has been computed by making back calculations
$$= \frac{15,50,000 \times 12.36}{112.36}$$
6. The aggregate value of taxable services of ABC Private Ltd. in the preceding financial year i.e., F.Y. 2011-12 is more than ₹10,00,000 as it has paid service tax of ₹ 2,06,000. Hence, it will not be entitled to exemption for small service providers in F.Y. 2012-13 and would be liable to service tax.
7. It has been assumed that invoices in respect of all the receipts have been issued within 30 days of the provision of the service.

Question 10

Mr. Ram who has entered into a roll over contract approached NDBC Bank for selling US \$ 35,000 at the rate of ₹ 49 per US \$. RBI reference rate for US \$ is ₹ 49.50 at that time. However, rate of exchange declared by CBEC for the day is ₹ 50.50 per US\$. Calculate the value of taxable service.

Answer

Rule 2B of the Service Tax (Determination of Value) Rules, 2006 provides the manner of determination of the value of taxable service so far pertains to purchase or sale of foreign currency, including money changing. The value of service for a currency, when exchanged from, or to, Indian Rupees (INR), shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, the value of taxable service = (RBI reference rate for \$ – Selling rate for \$) × Total units

$$= ₹ (49.50 - 49) \times 35,000$$

$$= ₹ 0.50 \times 35,000$$

The taxable value shall be ₹ 17,500.

Question 11

Rishabh Professionals Ltd. is engaged in providing services which became taxable with effect from July 01, 2012. Compute the service tax payable by Rishabh Professionals Ltd. on the following amounts (exclusive of service tax) received for the month of March, 2013:-

Particulars	Amount (₹)
Services performed before such service became taxable	5,00,000
Services by way of renting of residential dwelling for use as residence	1,50,000
Free services rendered to the friends	20,000
Advance received in March for services to be rendered in July, 2013 (The agreement got terminated in April, 2013. Hence, no services were rendered in July. However, a sum of ₹ 3,50,000 was refunded in June, 2013)	5,00,000
Other receipts	12,00,000

Answer**Computation of service tax payable by Rishabh Professionals Ltd.:-**

Particulars	Amount (₹)
Services performed before such service became taxable (Note-1)	Nil
Services by way of renting of residential dwelling for use as residence (Note-2)	Nil
Free services rendered to the friends (Note-3)	Nil
Advance received for the services to be rendered in July, 2013 (Note-4)	5,00,000
Other receipts	<u>12,00,000</u>

3.9 Service Tax & VAT

Total	17,00,000
Less: Exemption available to small service providers (Note-5)	<u>10,00,000</u>
Value of taxable services	<u>7,00,000</u>
Service tax @12%	84,000
Add: Education cess @ 2%	1,680
Add: Secondary and higher education cess @ 1%	<u>840</u>
Service tax payable	<u>86,520</u>

Notes:-

1. No service tax is payable for the value of services, which is attributable to services provided during the period when such services were not taxable even if the amount is realized after such services have become taxable.
2. Services by way of renting of residential dwelling for use as residence are included in the negative list of services. Hence, they are not subject to service tax.
3. Service tax is chargeable on the value of service. Thus, service tax is not payable in case of free services as there is no consideration in such case.
4. Advance received for the services to be rendered in July, 2013 is liable for service tax. The amount of service tax included in the amount refunded in the next financial year i.e. June 2013 would be adjusted against service tax liability of subsequent periods. [It is assumed that ₹ 3,50,000 refunded in June, 2013 after the termination of agreement includes the amount of service tax payable thereon].
5. Since, services provided by Rishabh Professional Ltd. became taxable on July 01, 2012, aggregate value of taxable services rendered in preceding financial year 2011-12 is Nil. Hence, Rishabh Professional Ltd. is eligible for exemption under *Notification No. 33/2012 ST dated 20.06.2012*.

Question 12

Sambahv Private Limited is engaged in providing the services liable to service tax. Compute the service tax payable by it in the month of October, 2012 from the information furnished below:-

Particulars	Amount(₹)
Services rendered to poor people free of cost (Value of the services computed on comparative basis)	40,000
Advances received in October, 2012 from clients for which no service has been rendered so far	50,000
Renting of agro machinery for agricultural purpose	5,00,000

Amount received for the services rendered in July, 2012 (Bills for the same were issued on July 29, 2012)	60,000
---	--------

Note: The aforesaid amounts are exclusive of service tax. Sambhav Private Limited is not eligible for small service providers' exemption in the financial year 2012-13.

Answer

Computation of service tax payable by Sambhav Private Limited in the month of October, 2012:-

Particulars	Amount (₹)
Services rendered to poor people free of cost (Note-1)	Nil
Advances received in October, 2012 from clients (Note-2)	50,000
Renting of agro machinery for agricultural purpose (Note-3)	Nil
Amount received for the services rendered in July, 2012 (Note-4)	<u>Nil</u>
Value of taxable services	<u>50,000</u>
Service tax @ 12% = ₹ 50,000 × 12%	6,000
Education cess @ 2% = ₹ 6,000 × 2%	120
Secondary and higher education cess @ 1% = ₹ 6,000 × 1%	<u>60</u>
Service tax payable	<u>6,180</u>

Notes:

1. Service tax is chargeable on the value of service. Thus, service tax is not payable in case of free services as there is no consideration in such case.
2. Advances received in October, 2012 shall be taxable in the month of receipt of advance only. [Explanation to rule 3 of the Point of Taxation Rules, 2011].
3. Services relating to renting of agro machinery for agricultural purpose is included in the negative list of service. Hence, it is not taxable.
4. Point of taxation in respect of the services rendered in July, 2012 is July 29, 2012. Hence, receipts of ₹ 60,000 is not chargeable to service tax in October, 2012 [Rule 3(a) of the Point of Taxation Rules, 2011].

Question 13

Ahmed & Co. of Srinagar rendered taxable services both within and outside the State of Jammu & Kashmir. It received ₹ 26,12,000 for the services rendered inside the State of Jammu & Kashmir and ₹ 18,00,000 for the services rendered outside the State of Jammu & Kashmir.

Compute its taxable service value and service tax liability.

3.11 Service Tax & VAT

In case, Ahmed & Co. was situated in Mumbai, what would be value of its taxable service and service tax liability?

Answer

Eligibility to service tax for services rendered in Jammu & Kashmir and other places:-

The services rendered inside the State of Jammu and Kashmir are not liable to service tax and hence, ₹ 26,12,000 is not chargeable to service tax.

The services rendered outside the State of Jammu and Kashmir are liable to service tax. Hence, receipts of ₹ 18,00,000 is liable to service tax.

The service tax liability would be $\text{₹ } 18,00,000 \times \frac{12.36}{112.36} = \text{₹ } 1,98,006$.

In case Ahmed & Co. was in Mumbai, the services rendered in the State of Jammu and Kashmir would not be liable to service tax levy and the services rendered at any place other than Jammu and Kashmir would be liable to service tax.

In effect, the value of taxable service and service tax liability would be the same. There won't be any change in value of taxable service and service tax liability.

Question 14

State with reasons whether the following are liable for service tax :

- (i) *Services rendered by a sub-contractor.*
- (ii) *Services rendered to associated enterprise.*

Answer

- (i) Services rendered by sub-contractor are liable to service tax. A sub-contractor is essentially a taxable service provider. The fact that services provided by such sub-contractors are used by the main service provider for completion of his work does not in any way alter the fact of provision of taxable service by the sub-contractor.
- (ii) Services rendered to associated enterprise are liable to service tax. No special treatment from exigibility to service tax or exemption has been provided for services rendered to an associated enterprise.

Question 15

Chandra Limited started providing taxable services. The services became taxable from 1-10-2012.

Chandra Limited for the month of March, 2013, received following receipts (inclusive of service tax)

S. No.	Particulars	Amount (₹)
1.	Amount received in respect of services rendered in July and August, 2012.	10,30,000
2.	Services rendered to its auditors against audit fee Payable.	5,15,000
3.	Advance received for services to be rendered in May, 2013.	6,18,000
4.	Services provided to office staff and their relatives free of cost	20,000

Out of advance received, 50% was returned on 15-04-2013 to the party, as they have closed their operations from 31-03-2013.

Compute the taxable services and service tax payable for March, 2013 by Chandra Limited.

Answer

Computation of amount of service tax collected by Chandra Limited:-

Particulars	Amount (₹)
Amount received in respect of services rendered in July and August 2012 (such amount is not taxable because service became taxable on 01/10/2012).	NIL
Services provided to its auditors against audit fee payable	5,15,000
Advance received for services to be rendered in May 2013 (advance receipt is chargeable to service tax. It is immaterial that operation has been closed from 31/03/2013 and advance was returned on 15/04/2013. As regards this month, it is chargeable to tax.)	6,18,000
Services provided to office staff and their relatives free of cost (service rendered without any consideration are not liable to service tax)	NIL
Gross Amount	11,33,000
Less : Exemption available to small service providers (since, service became taxable in 2012-13 itself, the aggregate value of taxable services in 2011-12 would be zero. Hence, Chandra Limited is eligible for small service providers' exemption in the current financial year)	10,00,000
Value of taxable services (inclusive of service tax)	1,33,000
Value of taxable services (excluding service tax) = ₹133000 × 100/112.36	1,18,370
Service tax = ₹133000 × 12.36/112.36	14,630

Notes:-

1. It has been assumed that Chandra Limited has started providing services only in the month of March 2013 and it has not collected service tax on the turnover up to ₹10 lakh

3.13 Service Tax & VAT

and has started collecting the same thereafter.

2. The solution has been worked out on the logical presumption that service tax has not been collected on the amount received in respect of services rendered before the services became taxable which is exempt from service tax.

Question 16

Briefly explain the "Exemption available to small scale service providers" in reference to service tax:

Answer

Central Government has exempted the taxable services of aggregate value not exceeding ₹ 10 lakh in any financial year from the whole of the service tax leviable thereon under section 66B of the Finance Act, 1994 in case the aggregate value of taxable services rendered by the service provider from one or more premises, does not exceed ₹ 10 lakh in the preceding financial year.

Question 17

ABC & Co. received the following amounts during the half year ended 31-3-2013:

Particulars	₹
(i) For services performed prior to the date of levy of service tax (Assume service tax was levied from a specified date by change of law)	3,50,000
(ii) Advance amount received in March, 2013 (No service was rendered and the amount was refunded to the client in July 2013)	75,000
(iii) For free services rendered to customers, amount reimbursed by the manufacturer of such product. (for the period after the imposition of service tax)	50,000
(iv) Amounts realized and on which service tax is payable (excluding the items (i) to (ii) above)	14,26,500

Calculate the service tax liability duly considering the threshold limit.

Answer

Computation of service tax liability of ABC & Co.:-

Particulars	₹
Amount received for the services rendered prior to levy of service tax is not taxable though the amount is realized after the change of law levying service tax	Nil

Advance received is liable to service tax. On refund of amount received for the services; service tax so paid would be adjusted against service tax liability of the subsequent period.	75,000
Amount received from manufacturer for free services rendered to customers is liable for service tax	50,000
Amount realized for services rendered after imposition of service tax	<u>14,26,500</u>
Total	15,51,500
Less: Threshold limit	<u>10,00,000</u>
Value of taxable service	<u>5,51,500</u>
Service tax payable = ₹ $\frac{5,51,500 \times 12.36}{112.36}$	<u>60,667</u>

Question 18

Briefly provide the manner of determination of the value of taxable service relating to purchase or sale of foreign currency, including money changing.

Answer

Rule 2B of Service Tax (Determination of Value) Rules, 2006 provides the manner of determination of the value of taxable service provided so far as the services so provided pertains to purchase or sale of foreign currency, including money changing. The value of service shall be determined as follows:-

(a) For a currency, when exchanged from, or to, Indian Rupees (INR)

For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

(b) Where the RBI reference rate for a currency is not available

Where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.

(c) Where neither of the currencies exchanged is Indian Rupee

Where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

EXERCISES

1. Which section governs the valuation of taxable services?
 - (a) section 65 of the Finance Act, 1994
 - (b) section 67 of the Service Tax Act, 1994
 - (c) section 67 of the Finance Act, 1994
 - (d) none of the above
2. Money for the purpose of valuation of taxable service includes:
 - (a) promissory note
 - (b) cheque
 - (c) postal remittance
 - (d) all of the above
3. Gross amount charged for the taxable service includes:
 - (a) only the amount received before the provision of taxable service
 - (b) any amount received before, during or after the provision of taxable service
 - (c) only the amount received during the provision of taxable service
 - (d) only the amount received after the provision of taxable service
4. How will a taxable service be valued when the consideration thereof is not in wholly or partly in terms of money?
5. How will a taxable service be valued when the gross amount charged for it includes service tax payable?

Answers

1.(c); 2.(d); 3.(b)