PAPER 4 – INDIRECT TAX

I. P. C. Examination

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Unit 1 – Service Tax

1> Service tax law came into force w. e. f. 1st July, 1994 by amending Chapter V of Finance Act, 1994.

2> Service tax law in India started only with 3 services –

- General Insurance
- Telephone Services
- Stock broking

3> Source of Service Tax law-

- Finance act, 1994
- Rules
- Notifications
- Circulars or Office letter (Instructions)
- Orders
- Trade Notice

4> Administration on Service Tax

Director General of Service Tax (Co-ordinator between 3 & 5)

Ministry of Finance (1)
↓
Department of Revenue (2)
↓
Central Board of Excise & Customs (3)
↓
Central Excise Zone headed by Chief Commissioners (4)
↓
Central Excise Commissionerates headed by Commissioners (5)
↓
Service Tax Commissionerates (6)
↓
Additional Commissioner (7)
↓
Joint Commissioner (8)
↓
Assistant Commissioner / Deputy Commissioner (9)
↓
Superintendent (10)
↓
Inspector (11)

5> Role of Chartered Accountant

i- Advisory Services
ii- Procedural compliances
iii- Personal representation
iv- Certification & Audit
v- Onerous task to keep pace

6> Definition of Service [Section 65B(44)]

Service means

(i) Any activity for consideration
(ii) Carried out by a person for another &
(iii) Includes a declared service

Exclusions from Definition of Service

Immovable property
Movable Property
Actionable claims
Goods
Employee

7> Charge of Service Tax / Effective (Uniform) Rate

Particulars	Rs.	Rs.
Value of Taxable Service		100.00
Add: Service Tax Payable- i. Service Tax @ 12% ii. Education Cess @ 2% on service tax iii. Secondary & Higher Education cess @ 1% on service tax	 12.00 0.24 0.12	 12.36
GROSS VALUE OF TAXABLE SERVICE		112.36
EFFECTIVE RATE OF SERVICE TAX		**12.36%**

8> Valuation of Taxable Service Tax

1- If Gross amount charged by Service provider OR
2- If service tax is not charged separately in the bill OR
3- If Gross amount received is inclusive of service tax

If any 1 of the above 3 situation are given in the problem then in such case the value of taxable service & Service tax payable will be computed by using following 2 formula's-

<A> Value of Taxable Service = $\frac{\text{Gross Amount Charged}}{112.36} \times 100$

<B> Service Tax Payable = $\frac{\text{Gross Amount Charged}}{112.36} \times 12.36$

9> Point of Taxation

As per rule 3 of the said rule, point of taxation would be determined as follows-

Sr.No.	In case	Point of taxation would be
1.	Invoice is issued Within the prescribed period of *** 30 days** from the Date of completion of provision of Service	(a) Date of Invoice Or (b) Date of Payment Whichever is earlier
2.	Invoice is **not** issued Within the prescribed period of *** 30 days** from the Date of completion of provision of Service	(a) Date of completion of service Or (b) Date of Payment Whichever is earlier

*** 45 days in case of banking & other financial institutions including NBFC's**

10>Due dates for payment of Service tax

(A) INDIVIDUAL / PROPERITARRY FIRM / PARTNERSHIP FIRM

Sr.No.	Particulars	Due Date
1.	Service tax paid through internet banking	6th day of the following **Quarter**
2.	In any other case	5th day of the following **Quarter**
3.	Service deemed to be provided in Quarter ending march	31st day of March

(B) COMPANY / HUF

Sr.No.	Particulars	Due Date
1.	Service tax paid through internet banking	6th day of the following **Month**
2.	In any other case	5th day of the following **Month**
3.	Service deemed to be provided in Quarter ending march	31st day of March

11>Special provision for payment of Service tax

A. In case of Air Travel Agent [Sub Rule (7)]

In the case of	Option to pay an amount calculated @
Domestic booking of passage for travel by air during any calendar Month/Quarter, as the case may be	0.6% of basic fare
International booking of passage for travel by air during any calendar Month/Quarter, as the case may be	1.2% of basic fare

B. In case of Insurer carrying on Life insurance business [Sub Rule (7A)]

First year	3% of Gross premium charged
Subsequent year	1.5% of Gross premium charged

C. In case of Sale/Purchase of Foreign currency including money changing [Sub Rule (7B)]

Sr.No.	Amount	Rate
1.	Upto 1,00,000	0.12% of Gross amount of currency exchanged OR Rs. 30 Whichever is HIGHER
2.	Exceeding 1,00,000 but Upto 10,00,000	Rs. 120 + 0.06% of Gross amount of currency exchanged
3.	Exceeding 10,00,000	Rs. 660 + 0.012% of Gross amount of currency exchanged OR Rs. 6000 Whichever is LOWER

D. Optional Composition scheme for Taxable service of Promotion, Marketing or Organising/assisting in Organising Lottery [Sub Rule (7C)]

Guaranteed lottery prize payout is > 80%	Rs.7,000 on every Rs.10 lakhs (or part thereof) of aggregate Face value of lottery ticket printed by the organising state of a draw
Guaranteed lottery prize payout is < 80%	Rs.11,000 on every Rs.10 lakhs (or part thereof) of aggregate Face value of lottery ticket printed by the organising state of a draw

12>Interest on Delayed payment of Service Tax

Rate of Interest = **18%** [Notification no. 14/2011 dated 01.03.2011]

In case of **Service provider**, whose value of taxable service **does not exceed Rs. 60 lakhs** in any financial year, such rate of interest shall be reduced by 3% i.e. Interest calculated **@ 15%**

13> Forms

For Registration	S.T. 1
For Certificate of Registration	S.T. 2
For filling of Annual Return	S.T. 3 Return
For Making Provisional Assessment	S.T. 3A Return
For Payment of Service Tax	GAR-7 Challan

14> Manner of Filling Return

1	Form of Return	S.T. 3
2	Periodicity of Return	Half Yearly basis
3	Details to be furnished	Return Must Indicate inter alia, monthwise : (i) Value of taxable service (ii) Gross amount charged (iii) Service tax payable etc.
4	Enclosure of Return	Half-yearly Return in Form S.T.3 is required to be accompanied by : (i) Photocopy of counterfoil of GAR-7 Challan (ii) Memorandum in Form S.T.3A (where the assessment is provisional

15> Due dates for filling Return

Half Year	Due date
1st April to 30th September	25th October
1st October to 31st March	25th April

16> Late fee for Delayed Return [Rule 7C]

Sr.No.	Period of delay	Late fee {Maximum Rs. 20,000}
1.	15 days from the date prescribed for submission of return	Rs. 500
2.	Beyond 15 days but not later than 30 days	Rs. 1,000
3.	Beyond 30 days	Rs. 1,000 + Rs. 100 per day

17> Registration Rules

The person who is liable for Registration is as follows –

(A) Person who is liable to Service tax
(B) Input Service Distributor
(C) Service provider whose value of taxable service exceeds Rs. 9,00,000 during financial year.

Exemption-

Exemption from service tax payment to those service providers whose value of taxable service has not exceeds Rs. 10,00,000

18> Determination of Value of service portion involved in supply of Food or any other article of Human consumption or any drink in a restaurant or as outdoor catering [Rule 2C]

Sr.No.	Descriptions	Value of Taxable service shall be __ of total amount
1.	Food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as part of activity, at a **RESTAURANT**	40%
2.	Food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as part of such **OUTDOOR CATERING**	60%

19> CENVAT CREDIT

CENVAT System was introduced in Service Tax Law w. e. f. 10.09.2004

It provides credit of service tax paid on Input Service

Following taxes are available for CENVAT:

1. Service tax paid on input service
2. Education cess
3. Excise duty paid on input & capital goods used for providing service
   Input Goods = 100% Excise duty allowed
   Capital Goods = 50% Excise duty in this year & another 50% in next year
4. Interest/Penalty are **NOT ALLOWED**

20> Negative list of service [Section 66D]

According to Section 65B(34) of Finance Act, 1994 “negative list” means the services which have been listed in Section 66D.

Following 17 services have been listed in Section 66D:

1. Services by government or a local authority excluding the following services to the extent they are not covered elsewhere
   i. Services by the Department of Posts by way of speed post, express parcel post, and life insurance and agency services provided to a person other than the government
   ii. Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport
   iii. Transport of goods or passengers
   iv. Support services, other than services covered under clauses (i) and (iii) above, provided to business entities
2. Services by the Reserve Bank of India

3. Services by a Foreign Diplomatic Mission located in India
4. Services relating to agriculture by way of
   i. agricultural operations directly related to production of any agricultural produce including Cultivation, harvesting, threshing, plant protection or seed testing;
   ii. Supply of farm labour;
   iii. Processed carried out at an agricultural farm including tending, pruning, cutting, Harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packing and such like operations which do not alter the essential Characteristics of agricultural produce but make it marketable for the primary market; Characteristics of agricultural produce but make it marketable for the primary market;
   iv. Renting or leasing of agro machinery or vacant land with or without structure incidental to Its use;
   v. loading, unloading, packing, storage or warehousing of agricultural produce;
   vi. Agricultural extension services;
   vii. Services by an Agricultural Produce Marketing Committee or Board or Services provided by a commission agent for sale or purchase of agricultural produce;
5. Trading of goods;
6. Any process amounting to manufacture or production of goods;
7. Selling of space or time slots for advertisements other than advertisements Broadcast by radio or television;
8. Services by way of access to a road or a bridge on payment of toll charges;
9. Betting , gambling of lottery;
10. Admission to entertainment events or access to amusement facilities;
11. Transmission or distribution of electricity by an electricity transmission or Distribution utility;
12. Services by way of
    i. Pre-school education up to higher secondary school or equivalent;
    ii. Education as a part of curriculum for obtaining a qualification recognized by any law for the Time being in force;
    iii. Education as a part of an approved vocational education course
13. Services by way of renting of residential dwelling for use as residence;
14. Services by way of
    i. Extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
    ii. Inter se sale or purchase of foreign currency amongst bank and authorized dealers of Foreign exchange or amongst banks and such dealers
15. Service of Transportation of passengers, with or without accompanied belongings, by
    i. A stage carriage;
    ii. Railways in a class other than
       A. First Class; or
       B. An air conditioned coach;
    iii. Metro, monorail, tramway;
    iv. Inland waterways;
    v. Public transport, other than predominantly for tourism purpose, in a vessel of less than Fifteen tones net; and
    vi .Metered cabs, radio taxis or auto rickshaws;
16. Services by way of transportation of goods –
    i. by road except the services of –
       A. A goods transport agency; or
       B. A courier agency;
    ii. By an aircraft or a vessel from a place outside India to the first customs station of landing in India; or
    iii. By Inland waterways
17. Funeral, burial, crematorium or mortuary services including transportation of the deceased.

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Unit 2 – VAT

1> Variants of VAT

GROSS PRODUCT VARIANT
Tax is levied on all sales & deduction of tax paid on inputs excluding capital input is allowed

INPUT VARIANT
Tax is levied on all sales with set-off for tax paid on inputs & only depreciation on capital goods

CONSUMPTION VARIANT
Tax is levied on all sales with deduction of tax paid on all business inputs (including capital goods)

2> Methods for Computation of VAT

Addition Method
Aggregating all the factor payment & profit

Subtraction Method
- Deducting aggregate value of purchase exclusive of tax from the aggregate value of sales exclusive of tax
- Deducting tax inclusive value of purchase from the sales & taxing difference between them

Invoice Method
Deducting tax on inputs from tax on sales

3> Role of Chartered Accountant in VAT

1. Record keeping
2. Tax planning
3. Negotiations with suppliers to reduce price
4. Handling the audit by departmental officers
5. External audit & VAT records

4> Merit of VAT

i. No tax evasion
ii. Neutrality
iii. Certainty
iv. Transparency
v. Better revenue collection & stability
vi. Better accounting system
vii. Effects on retail price

5> Demerit of VAT

i. Input credit cannot take for composition schemes and exemption schemes.
ii. Input credit only for purchase within the state not purchase from outside the state.
iii. For small dealers such detailed accounting of purchases will be a big burden.
iv. Tax payable has an impact on their working capital

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6> Input Tax Credit (ITC)

A. Eligible Purchases for availing ITC

i. Sale within state
ii. Sale to others part of India in course of Inter-state trade/commerce
iii. To be used as-
   a. Containers/packing material
   b. Raw material
   c. Capital goods
   d. Consumable stores
iv. For being used in the execution of work Contract
v. To be used as capital goods required for the purpose of manufacture/resale of taxable goods
vi. For making zero-rated sales other than those referred in clause (iii) above

B. Purchases not eligible for ITC

i. Purchase from Un-registered dealer
ii. Purchases from Registered dealer who opt for Composition Scheme
iii. Purchase of goods as may be notified by state govt
iv. Purchase of goods where Invoice is not available
v. Purchase of goods where invoice does not show amount of tax separately
vi. Purchase of goods, which are being utilized in the manufacture of Exempted goods
vii. Goods in stock, which have suffered tax under earlier act but under VAT act they are covered under Exempted goods
viii. Purchase of goods for own consumption [Partial credit available in the state of Maharashtra]
ix. Goods imported from outside the territory of India [High seas purchases]
x. Goods imported from other state i.e. Inter-state purchases

7> Composition Scheme

Composition scheme is simple scheme, providing a simple procedure of tax for benefit of SMALL DEALER

- This scheme is applicable for prescribed retail business
- 90% of turnover of sales should consist of sale directly to Consumer [9/10th to Customer]
- This scheme is applicable only to those dealer whose annual turnover is less than Rs. 50 lakhs

8> Tax Rates

Schedule	Tax Rate	Nature	Section	Commodities	Remarks
A	**0%**	Tax Free goods	Sec. 5	Agricultural goods	Zero related goods
B	**1%**	Taxable Goods	Sec. 6	Gold, Silver, Precious metal & stones	
C	**5%**	Taxable goods	Sec. 6	Cement, Petrol, Diesel, Steel	
D	**20% / 50%**	Taxable goods	Sec. 6	Liquor, ATF, Petroleum products, cosmetics	Aviation Turbine Fuel (ATF)
E	**12.5%**	Taxable Goods	Sec. 6	Other goods	GENERAL RATE

9> Exempted sale of Goods by

The state govt may by notification Exempt following sale of goods by-

1. Special Economic Zone [SEZ]
2. Developer of SEZ
3. Export Oriented Unit [EOU]
4. Software Technology Pak
5. Electronic Hardware Technology Pak
6. Goods specified in Import & Export policy

10> When Dealer become liable for Registration & pay Sales tax

In order to become liable for Registration, a Dealer must satisfy the conditions during financial year _ _ _-

1. Total turnover of sales exceeds the prescribed limit of Rs. 5,00,000 during financial year _ _ _
   Rs. 10,00,000 for SMALL DEALER with a condition that the concerned state would bear the revenue loss, on account of increase in limit beyond Rs. 5,00,000

11> Records

Following records should be maintained-

1. Purchase records
2. Sales records
3. VAT account
4. Separate record for any Exempt sale

Further, the following records should also be kept & produced to an Officer:

i. Copies of all Invoice issued, in Serial no

ii. Copies of all Credit & Debit note issued, in chronological order

iii. All purchase invoice, copies of customs entries, receipt for payment of custom duty or tax, and Credit & debit notes received to be filed chronologically either by date of receipt or under each supplier's name

iv. Details of amount of tax in each sale/purchase

v. Total of output & input tax in each period and a net total of tax payable or the excess carried forward, as the case may be, at the end of each month

vi. Details of goods manufactured & delivered from the factory of the taxable person

vii. Detail of each supply of goods from the business premises, unless such details are available at the time of supply in invoices issued at, or before, that time

Failure to keep these records may attract Penalty