

Valuation of Taxable Services

Question 1

Prabhu Ltd. was awarded a contract in September, 2013 for providing plastering services in respect of an immovable property for ₹ 2,00,000/-. As per the terms of contract, the material required for plastering was also provided by Prabhu Ltd. Are said services subject to service tax. If so, determine the service tax liability of Prabhu Ltd.

Answer

The contract entered into by Prabhu Ltd. requires the provision of both services and material. Therefore, it fall within the scope of term 'works contract' as defined under section 65B(54) of the Finance Act, 1994.

In the given case, the value of the service portion in the execution of the works contract will be determined as per rule 2A(ii)(C) of the Service Tax (Determination of Value) Rules, 2006. It provides that service tax shall be payable on 60% of the total amount charged for the works contract.

The computation of service tax payable is exhibited below:

60% of the total amount charged	₹ 1,20,000/- [₹ 2,00,000 × 60%]
Rate of service tax	12.36%
Amount of service tax payable	₹ 14,832/- [which is 7.416% of the total amount charged of ₹ 2 lakh]

Question 2

Ram Oil Corporation [ROC] has awarded a contract in August, 2013 for ₹ 140 lakh to XYZ Construction Ltd. in respect of alterations to one of its buildings which was abandoned by ROC five years ago. The purpose is to make the said building workable. The materials required for carrying out the alterations is provided by XYZ Construction Ltd. Are the services of XYZ Construction Ltd. subject to service tax and if so, determine the amount of service tax payable?

Answer

Since the contract entered into by XYZ Construction Ltd. requires the provision of both services and material, it is 'works contract' [Section 65B(54) of the Finance Act, 1994].

Further, since the contract is for carrying out alterations in respect an abandoned building with a view to make it workable, it falls within the purview of term "original works" [Clause (a) of explanation 1 to rule 2A of the Service Tax (Determination of Value) Rules, 2006].

4.2 Service tax

In the given case, the value of the service portion in the execution of the works contract will be determined as per rule 2A(ii)(A) of the Service Tax (Determination of Value) Rules, 2006. It provides that service tax shall be payable on 40% of the total amount charged for the works contract.

The computation of service tax payable is exhibited below:

40% of the total amount charged	₹ 56 lakh [₹ 140 lakh × 40%]
Rate of service tax	12.36%
Amount of service tax payable	₹ 6,92,160/-[which is 4.944% of the total amount charged of ₹ 140 lakh]

Question 3

Compute service tax liability from the following particulars for the financial year 2013-14:

Gross amount (excluding all taxes) charged by the service provider for providing works contract service	₹1,00,000
Actual value of material transferred in the above works contract (VAT under the relevant State VAT Law has been paid on this value)	₹ 70,000
Excise duty paid on inputs	₹ 8,750
Service tax paid on input services	₹ 1,000
Excise duty paid on the capital goods, purchased during the year, used in the provision of works contract service	₹ 1,000
Rate of service tax	12.36%

Answer

Computation of service tax liability as per rule 2A(i) of the Service Tax (Determination of Value) Rules, 2006:

Particulars	Amount (₹)
Gross amount charged	1,00,000
Less: Actual value of goods transferred (Note-1)	<u>70,000</u>
Value of service portion in the execution of works contract	<u>30,000</u>
Service tax on ₹ 30,000 @12.36%	3,708
Less: CENVAT credit on inputs (Note-2)	-
CENVAT credit on input services	1,000
CENVAT credit on capital goods (50%) (Note-3)	<u>500</u>
Service tax payable	<u>2,208</u>

Notes:

1. Since VAT has been paid on the actual value of property in goods transferred in the execution of the works contract, such value adopted for the purposes of payment of VAT

has been taken as the value of property in goods transferred in the execution of the said works contract [Clause (c) of Explanation to rule 2A(i) of the Valuation Rules].

2. CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, is not available [Explanation 2 to rule 2A of the Valuation Rules].
3. Only 50% of the duty paid on the capital goods is available as CENVAT credit, in the current year [Rule 4(2)(a) of the CENVAT Credit Rules, 2004].

Question 4

Robinson Bank Ltd. furnishes the following information relating to services provided and the gross amount received during the month of December, 2013. Compute the value of taxable service and service tax payable:

		₹ (Lakhs)
(i)	Amount of commission received for debt collection service	10
(ii)	Discount earned on bills discounted	4.5
(iii)	Value of sale and purchase of forward contract	5.7
(iv)	Charges received on credit card and debit card facilities extended	3.8
(v)	Penal interest recovered from the customers for the delay in repayment of loan	2.6
(vi)	Commission received for service rendered to Government for tax collection	6.0
(vii)	Interest earned on reverse repo transaction	25.0

Note: Robinson Bank Ltd. is not eligible for small service providers' exemption under Notification No. 33/2012 – ST dated 20.06.2012.

Answer

Computation of value of taxable service and service tax payable by Robinson Bank Ltd.

Sl. No.	Particulars	Amount (₹ in lakh)
(i)	Commission received for debt collection service [Note 1]	10,00,000
(ii)	Discount earned on bills discounted [Note 2]	-
(iii)	Value of sale and purchase of forward contract [Note 3]	-
(iv)	Charges received on credit and debit card facilities extended [Note 4]	3,80,000
(v)	Penal interest recovered from the customers for the delay in repayment of loan [Note 5]	-

4.4 Service tax

(vi)	Commission received for service rendered to Government for tax collection [Note 1]	6,00,000
(vii)	Interest earned on reverse repo transaction [Note 6]	-
	Total	<u>19,80,000</u>
	Value of taxable service $\left[19,80,000 \times \frac{100}{112.36} \right]$ rounded off	17,62,193
	[since all the amounts are total amounts received]	
	Service tax payable [₹ 17,62,193 × 12%]	2,11,463
	Education cess [₹ 2,11,463 × 2%]	4229
	Secondary and higher education cess [₹ 2,11,463 × 1%]	<u>2115</u>
	Total service tax payable	<u>2,17,807</u>

Notes:

- Commission received for debt collection service and commission received for service rendered to Government for tax collection are neither transactions in money which are excluded from the definition of service nor covered in negative list or under any exemption notification and are thus liable to service tax.
- Services of bills discounting, to the extent the consideration is represented by way of discount, is covered in the negative list of services as such discounting is also a manner of extending credit facility or a loan.
- Sale or purchase of forward contracts, being transaction in money, is outside the scope of the definition of service.
- Credit extended through credit and debit cards is not in the nature of loan or advance for interest and thus, the charges received on account of such extended credit is in fact, the consideration for the services rendered by way of credit card.
- Penal interest recovered from the customers for the delay in repayment of loan is not a consideration for an activity. Further, since services of extending loans in so far as the consideration is represented by way of interest is covered in the negative list, penal interest charged for delay in repayment of loan will also not be liable to service tax.
- Reverse repo being a security, which is goods is excluded from the definition of service.

Question 5

Florus Advertising agency received the following charges during the quarter ended 31.03.2014, for the services rendered by it:-

Services rendered	Amount (₹)
Sale of space for advertisement in newspaper	45,000
Services related to preparation of advertisement	85,000

<i>Sale of time for advertisement to be broadcast on Radio</i>	<i>65,000</i>
<i>Advertisement via banner at public places</i>	<i>50,000</i>
<i>Sale of time for advertisement to be broadcast on TV Channel</i>	<i>1,00,000</i>
<i>Aerial bill-boards</i>	<i>90,000</i>
<i>Canvassing advertisement for publishing on a commission basis</i>	<i>35,000</i>

Compute the service tax liability of Florus Advertising agency for the quarter ended 31.03.2014.

Notes:

1. Point of taxation for all the aforesaid cases falls during the quarter ended 31.03.2014.
2. All the charges stated above are exclusive of service tax.
3. Small service providers' exemption, under Notification No. 33/2012 – ST dated 20.06.2012, need not be taken into account while solving the aforesaid question.

Answer

“Selling of space or time slots for advertisements other than advertisements broadcast by radio or television” is included in the Negative List of services as per clause (g) of section 66D of the Finance Act, 1994. Hence, sale of space for advertisement in print media, sale of space for advertisement in bill boards, public places and aerial advertising are not taxable as they are included in the negative list. However, following services are excluded from the negative list:-

- (i) Services provided by advertisement agencies relating to making or preparation of advertisements.
- (ii) Merely canvassing advertisement for publishing on a commission basis.
- (iii) Sale of space or time for advertisement to be broadcast on radio or television.

Hence, the aforesaid services are taxable.

Thus, the amount of service tax payable by Florus Advertising agency for the quarter ended 31.03.2014 would be as follows:-

Particulars	Amount(₹)
Sale of space for advertisement in newspaper	-
Services related to preparation of advertisement	85,000
Sale of time for advertisement to be broadcast on FM Radio	65,000
Advertisement via banner at public places	-
Sale of time for advertisement to be broadcast on TV Channel	1,00,000
Aerial bill-boards	-

4.6 Service tax

Canvassing advertisement for publishing on a commission basis	<u>35,000</u>
Value of taxable service	<u>2,85,000</u>
Service tax @ 12% [2,85,000×12%]	34,200
Education cess @ 2% [34,200×2%]	684
Secondary and higher education cess @ 1% [34,200×1%]	<u>342</u>
Service tax liability	<u>35,226</u>

Question 6

ASB Ltd., has a real estate business. It furnishes the following information pertaining to services provided:

Particulars	Amount (₹)
Construction services provided to International Labour Organisation	10,00,000
Construction of private clinic of a doctor	50,00,000
Repair service provided to State Government relating to plant for sewerage treatment	25,00,000
Construction of roads in a factory	20,00,000
Construction of residential complex meant for use of Member of Parliament	80,00,000
Renting of residential dwelling for use as residence	2,00,000
Repair and maintenance of a Railway Station	15,00,000

Compute the value of taxable service and the service tax liability of ASB Ltd. assuming that it is not eligible for small service providers' exemption under Notification No. 33/2012 – ST dated 20.06.2012.

Answer

Computation of value of taxable service and service tax liability of ASB Ltd:-

Particulars	Amount (₹)
Construction services provided to International Labour Organisation (Note-1)	Nil
Construction of private clinic of a doctor (Note-1)	50,00,000
Repair service provided to State Government relating to plant for sewerage treatment (Note-1)	Nil
Construction of roads in a factory (Note-1)	20,00,000
Construction of residential complex meant for use of a Member of Parliament (Note-1)	Nil
Renting of residential dwelling for use as residence (Note-2)	Nil

Repair and maintenance of a Railway Station (Note-1)	<u>15,00,000</u>
Value of taxable service	<u>85,00,000</u>
Service tax @ 12% [₹ 85,00,000×12%]	10,20,000
Education cess @ 2% [₹ 10,20,000×2%]	20,400
Secondary and higher education cess @ 1% [₹ 10,20,000×1%]	<u>10,200</u>
Service tax liability	<u>10,50,600</u>

Notes:

- Following service are exempt from service tax vide mega exemption notification - *Notification No. 25/2012-ST dated 20.06.2012:-*
 - Any services provided to the specified international organisations.
 - Construction of hospitals for the Government a local authority or a Governmental authority. However, such services provided to any other person are taxable.
 - Repair service provided to State Government relating to plant for sewerage treatment.
 - Services provided by way of construction of roads for use by general public. However, construction of roads which is not for use by general public is taxable.
 - Construction of residential complex meant for use of a Member of Parliament.
 - Services by way of construction, erection, or installation of original works pertaining to railway. Therefore, repair and maintenance of railways is liable to service tax.
- Services by way of renting of residential dwelling for use as residence are included in the negative list and hence, are not taxable.

Exercise

- Discuss whether the Central Excise Officer has power to reject the value of taxable service.*
- Write a detailed note on concept of pure agent.*