

Exemptions and Abatements

Question 1

ABC Constructions Ltd. has provided the following details with respect to individual residential units constructed by it in various cities as part of residential apartments:

Flat Type	Carpet Area (sq. ft.)	Amount Charged (₹)	
A	1980	1,10,00,000	Part of consideration received before issuance of completion certificate by the competent authority
B	2000	1,00,00,000	
C	2500	1,05,00,000	
D	2400	99,50,000	Entire consideration received before issuance of completion certificate by the competent authority
E	2100	1,00,00,000	
F	1600	80,00,000	
G	1940	90,00,000	Entire consideration received after issuance of completion certificate by the competent authority

Following details are also available:

Type of building	Amount charged (₹)	
Multi-level parking for Local Development Authority	3,10,00,000	Part of consideration received before issuance of completion certificate by the competent authority
Office Complex	12,20,00,000	Entire consideration received before issuance of completion certificate by the competent authority
Shopping Mall	30,00,00,000	Entire consideration received after issuance of completion certificate by the competent authority

In all the above construction activities, value of land is included in the amount charged from the service receiver and CENVAT credit on inputs used for construction has not been availed.

You are required to compute the taxable value of the construction service, if any, in each of the case on the basis of the service tax law as applicable for the month of June, 2013.

Answer**Computation of value of taxable service of construction of residential complexes**

Flat Type	Carpet Area (sq. ft.)	Amount charged (₹)	Abatement %	Taxable Value = Amount charged – Abatement
A	1980	1,10,00,000	70	33,00,000
B	2000	1,00,00,000	70	30,00,000
C	2500	1,05,00,000	70	31,50,000
D	2400	99,50,000	70	29,85,000
E	2100	1,00,00,000	70	30,00,000
F	1600	80,00,000	75	20,00,000
G	1940	90,00,000	NA	It is not a case of service but a sale.

Computation of value of taxable service of construction of commercial buildings

Type of building	Amount charged (₹)	Abatement %	Taxable Value Amount charged – Abatement
Multi-level parking for Local Development Authority	3,10,00,000	70	93,00,000
Office Complex	12,20,00,000	70	3,66,00,000
Shopping Mall	30,00,00,000	NA	It is not a case of service but a sale.

Question 2

Answer with respect to applicability of service tax in the following cases during the month of June, 2013:

- Transport facility provided by a School to its students through a fleet of buses and cabs owned by the School.
- Transport facility provided by a School to its students through a private Bus/Cab Operator.
- Service provided by a private transport operator to a School in relation to transportation of students to and from a School.
- Services provided by way of vehicle parking to general public in a shopping mall.

5.3 Service Tax

- (v) *Service provided by way of repair or maintenance of aircraft owned by a State Government.*
- (vi) *Exhibiting movies on television channels.*
- (vii) *Transport of foodstuff, agricultural produce, chemical fertilizers and newspaper registered with the Registrar of Newspapers by a goods transport agency in a goods carriage.*
- (viii) *Transportation of petroleum and petroleum products and household effects by railways.*
- (ix) *Transportation of postal mails or mail bags by a vessel.*

Answer

- (i) Taxable. Transport facility provided by a School to its students is an auxiliary educational service. Auxiliary educational services provided TO an educational institution are specifically exempt from service tax vide *Notification No. 25/2012 ST dated 20.06.2012* amended. However, the auxiliary educational services provided BY an educational institution are not exempt from service tax.
- (ii) Taxable. Auxiliary educational services provided TO an educational institution are specifically exempt from service tax vide *Notification No. 25/2012 ST dated 20.06.2012* amended. However, the auxiliary educational services provided BY an educational institution are not so exempt from service tax.
- (iii) Exempt. Auxiliary educational services provided TO an educational institution are exempt from service tax vide *Notification No. 25/2012 ST dated 20.06.2012*.
- (iv) Taxable. Services provided by way of vehicle parking to general public are not exempt from service tax.
- (v) Taxable. Services of repair or maintenance of vessel owned by Government (Government includes State Government) are specifically exempt from service tax vide *Notification No. 25/2012 ST dated 20.06.2012* amended. However, services of repair or maintenance of aircraft owned by Government are not so exempt.
- (vi) Taxable. The benefit of exemption in relation to copyrights for cinematograph films is restricted only to films exhibited in a cinema hall or theatre. Therefore, exhibition of cinematograph films in a place other than cinema hall or theatre, are taxable [*Notification No. 25/2012 ST dated 20.06.2012* amended].
- (vii) Exempt. Services provided by a goods transport agency by way of transportation of foodstuff, agricultural produce, chemical fertilizers and newspaper registered with the Registrar of Newspapers are exempt from service tax vide *Notification No. 25/2012 ST dated 20.06.2012*.
- (viii) Taxable. Transportation of petroleum and petroleum products and household effects by railways are not exempt from service tax.
- (ix) Taxable. Transportation of postal mails or mail bags by a vessel are not exempt from service tax.

Question 3

ABC Constructions Ltd. is engaged in providing the services by way of construction of roads. The said services are exempt from service tax vide mega exemption notification- Notification No. 25/2012 ST dated 20.06.2012. Examine whether the sub-contractors who provide architects services and consulting engineer's services, which are used by ABC Constructions Ltd. in relation to such construction service, are also exempt from service tax.

Answer

No, the sub-contractors who provide architect service and consulting engineer service, which are used by ABC Constructions Ltd. in relation to such construction service, are not exempt from service tax. According to section 66F(1), reference to a service by nature or description in the Act shall not include reference to a service which is used for providing main service. Therefore, if any person is providing services by way of construction of roads such as architect's service and consulting engineer's service, which are used by the contractor in relation to such construction, the benefit of the mega-exemption would not be available to such persons unless the activities carried out by the sub-contractor independently and by itself falls in the ambit of the exemption.

Further, exemption is available to 'services by way of construction of roads' and not to 'services in relation to construction of roads'. It is thus apparent that just because the main contractor is providing the service by way of construction of roads, it would not automatically lead to the conclusion that services provided by the sub-contractor to the main contractor shall also be an exempt service.

Question 4

Discuss whether service tax is leviable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

Customer	Nature of services provided	Amount charged
A	Transportation of milk	₹ 20,000
B	Transportation of books on a consignment transported in a single goods carriage	₹ 3,000
C	Transportation of chairs for a single consignee in the goods carriage	₹ 600

Answer

Customer	Nature of services provided	Amount charged	Taxability
A	Transportation of milk	₹20,000	Exempt. Transportation of milk by goods transport agency is exempt vide

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			<i>Notification No. 25/2012-S.T. dated 20.06.2012.</i>
B	Transportation of books on a consignment transported in a single goods carriage	₹3,000	Service tax is leviable. Exemption vide <i>Notification No. 25/2012-S.T. dated 20.06.2012</i> is available for transportation of goods only where the gross amount charged for transportation of goods on a consignment transported in a single goods carriage does not exceed ₹1,500
C	Transportation of chairs for a single consignee in the goods carriage	₹600	Exempt. Transportation of goods where gross amount charged for transportation of all goods for a single consignee does not exceed ₹750/- is exempt vide <i>Notification No. 25/2012-S.T. dated 20.06.2012</i>

Question 5

Airport Authority of India (AAI) awarded a contract for construction of an airport in the Nicobar Islands to Ananyana Construction Ltd., for ₹ 100 lakh in August, 2013. Are the services of Ananyana Construction Ltd. subject to service tax and if so, determine the amount of service tax payable?

Answer

As per mega exemption notification-*Notification No. 25/2012 dated 20.06.2012*, services by way of construction of an airport are exempt from services. Therefore, the services of Ananyana Construction Ltd. are not subject to service tax.

Question 6

Basic Computer Centre (BCC) provided services of ₹8.4 lakh during the financial year 2012-13 in respect of repair and maintenance of computers under the unregistered brand name of "BIIT Computers". Is BCC entitled for small service provider exemption of ₹10 lakh under Notification No. 33/2012 - S.T. dated 20.06.2012, in the current financial year 2013-14?

Answer

Notification No. 33/2012-S.T. dated 20.06.2012 provides threshold exemption of ₹10 lakh in the current financial year if the aggregate value of taxable services rendered by a provider of taxable service from one or more premises does not exceed ₹ 10 lakh in the preceding financial year. However, the said exemption will not be available to taxable services provided by a person under a brand name or trade name of another person, irrespective of the fact whether such brand name or trade name is registered or not.

Since in the present case, Basic Computer Centre provides taxable services under the brand name of another person-BIIT Computers even though such brand name is unregistered, it is not entitled to avail threshold exemption of ₹10 lakh.

Exercise

1. *List any ten taxable services which are exempt from payment of service tax by virtue of Notification No. 25/2012-S.T. dated 20.06.2012.*
2. *State whether service tax is leviable on the following services:-*
 - (a) *Services by way of sponsorship of sporting events organized by Paralympics Committee of India.*
 - (b) *Services by way of training or coaching in recreational activities relating to arts, culture or sports.*
 - (c) *Services by way of non-charitable activities provided by an entity registered under section 12AA of the Income-tax Act, 1961*
 - (d) *Services provided by an arbitral tribunal to a business entity.*