

Service Tax Procedures

Question 1

Nitya provided interior decorator's services in the half year ended on 30th September, 2013. The due date of filing the return for the said half year was 25th October, 2013. Compute the amount of late fee payable by her, if any, in each of the following independent cases:

	Date of filing of service tax return
Case I	01.11.2013
Case II	22.11.2013
Case III	28.11.2013
Case IV	04.12.2013
Case V	14.12.2013
Case VI	03.05.2014
Case VII	02.06.2014
Case VIII	22.06.2014

Answer

Rule 7C of the Service Tax Rules, 1994 provides that where service tax return is furnished after the due date, the person liable to furnish the said return shall pay to the credit of the Central Government, following amounts of late fee:

S. No.	Period of delay	Late fee
(a)	15 days from the date prescribed for submission of the return	₹ 500
(b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return	₹ 1,000
(c)	Beyond 30 days from the date prescribed for submission of the return	An amount of ₹ 1,000 plus ₹ 100 for every day from the 31 st day till the date of furnishing the said return

However, section 70, *inter alia*, provides that the total late fee for delayed submission of return shall not exceed ₹ 20,000. In accordance with the aforesaid provisions the late fees payable by Nitya, in each of the following independent cases, will be as follows:-

Particulars	Amount of penalty under rule 7C
Case I: Return has been filed with a delay of 7 days from the date prescribed for submission of return.	₹500/-
Case II: Return has been filed with a delay of 28 days from the prescribed date.	₹1,000/-
Case III: There is a delay of 34 days in filing return from the prescribed date.	=₹1,000/- + (₹100 × 4 days) =₹1,400/-
Case IV: There is a delay of 40 days in filing return from the prescribed date.	=₹1,000/- + (₹100 × 10 days) =₹2,000/-
Case V: There is a delay of 50 days in filing return from the prescribed date.	=₹1,000/- + (₹100 × 20 days) =₹3,000/-
Case VI: There is a delay of 190 days in filing return from the prescribed date.	=₹1,000/- + (₹100 × 160 days) =₹17,000/-
Case VII: There is a delay of 220 days in filing return from the prescribed date.	=₹1,000/- + (₹100 × 190 days) =₹20,000/-
Case VIII: There is a delay of 240 days in filing return from the prescribed date.	Amount of penalty under rule 7C is:- =₹1,000/- + (₹100 × 210 days) =₹22,000/- However, the total late fees payable shall not exceed ₹ 20,000. Thus, late fees payable in this case is ₹ 20,000.

Question 2

With reference to the Finance Act, 1994 as amended and the rules made thereunder relating to service tax, state whether registration is required or not in case of the following persons or class of persons and if yes, what is the last date of applying for the registration:

- An input service distributor who starts his business with effect from 01.11.2013.
- Mr. A started providing non-taxable services under an unregistered brand name of another person on 01.01.2013. With effect from 01.04.2013, service tax was levied on the services provided by him owing to an amendment in law. His aggregate value of taxable services exceeded ₹ 9,00,000 on 31.03.2014.

Answer

- Yes, as per rule 3(1) of the Service Tax (Registration of Special Category of Persons) Rules, 2005, an input service distributor is liable to apply for registration within a period of 30 days of the commencement of business. Thus, in the given case, the input service distributor should apply for registration on or before 30.11.2013.

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- (ii) According to *Notification No. 33/2012 dated 20.06.2012*, the threshold exemption limit of ₹10 lakh is not available to taxable services provided by a person under a brand name or trade name, whether registered or not, of another person.

Therefore, in the present case, a provider of taxable service under an unregistered brand name of another person is liable to apply for registration:-

- (i) within 30 days from the date on which service tax is levied (i.e. 01.04.2013)

or

- (ii) within 30 days from the date of commencement of business (i.e. 01.01.2013).

whichever is later.

Thus, Mr. A should apply for registration on or before 30.04.2013.

Question 3

Mr. Yogi, located in taxable territory receives taxable services provided from a non-taxable territory by a U.K. based company. Examine whether Mr. Yogi is liable to get registered under service tax.

Answer

Yes. Mr. Yogi is liable to get registered under service tax. Section 68(2) of the Finance Act, 1994 empowers Central Government to notify the taxable services on which the service tax shall be payable by such person as may be specified.

Notification No. 30/2012-Service Tax dated 20.06.2012 thereby specifies that in respect of services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory, service tax is required to be paid by person receiving the service. Therefore, in the present case, service tax is required to be paid by Mr. Yogi, being a person receiving the service and located in taxable territory. Consequently, Mr. Yogi is liable to get registered under service tax.

Question 4

Shiv, a practicing Chartered Accountant, was liable to pay service tax of ₹ 6,00,000 for the quarter ended 30.06.2013. However, he deposited it on 15.09.2013. Compute the amount of interest payable by Shiv under section 75. The value of taxable services provided by him during the last financial year was ₹55.40 lakh.

What would be the amount of interest payable by Shiv if the value of services provided by him during the last financial year was ₹80.90 lakh?

Answer

Due date for payment of service tax for the quarter ended 30.06.2013 05.07.2013

(Shiv is not liable to deposit service tax electronically as he has paid service tax of less than ₹10 lakh in the preceding financial year)

Date when service tax was actually paid

15.09.2013

Under section 75 of the Finance Act, 1994, interest at the rate of 18% p.a. is payable for delayed payment of service tax. A concessional rate of interest @ 15% p.a. is made available to the tax payers whose turnover does not exceed ₹ 60 lakh during any of the years covered by the notice or during the preceding financial year.

Hence, in the given case, the concessional rate of 15% p.a. will be available to Shiv as his turnover was ₹ 55.40 lakh in the preceding financial year.

Period	Rate of interest	Delay in no. of days	Interest
06.07.2013 to 15.09.2013	15%	26 + 31 + 15 = 72	$6,00,000 \times \frac{72}{365} \times 15\% = ₹17,753.42$
			Rounded off = ₹ 17,753

If the value of taxable services provided by Shiv in the last financial year is ₹ 80.90 lakh (i.e. more than ₹60 lakh), interest 18% p.a. will be leviable from 06.07.2013 to 15.09.2013 as follows:-

Period	Rate of interest	Delay in no. of days	Interest
06.07.2013 to 15.09.2013	18%	26 + 31 + 15 = 72	$6,00,000 \times \frac{72}{365} \times 18\% = ₹21,304.11$
			Rounded off = ₹ 21,304

Exercise

- Who is responsible to make the payment of service tax in case of service rendered by a Goods Transport Agency?
- Who should apply for registration under service tax law?
- What is to be done with the registration certificate when-
 - registered assessee transfers his business to another or
 - a registered assessee ceases to carry on the activity for which he is registered?
- What are the various purposes for which an officer authorised by the Commissioner can access any premises registered under the Service Tax Rules, 1994? Further, also state what types of records have to be made available by the assessee to such authorized officer?