For the sake of brevity, Swachh Bharat Cess and Krishi Kalyan Cess have been referred to as SBC and KKC respectively.

Question 1

Good Health Medical Centre, a clinical establishment, offers following services:

(i) Reiki healing treatments. Such therapy is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010.

(ii) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.

(iii) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.

(iv) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).

(v) Alternative medical treatments by way of yoga.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Good Health Medical Centre is of the view that since it is a clinical establishment, all the service provided by it as well as all the services provided to it are exempt from payment of service tax.

You are required to examine the situation in the light of relevant statutory provisions.

Answer

Health care services provided by, inter alia, a clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. In light of the said provision, eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:
(i) **Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt under mega exemption notification and thus, service tax would be payable thereon.

(ii) Health care service does not include *inter alia* cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption and thus, service tax would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption under the said notification as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

(iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.

(iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place.

(v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from service tax. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be exempt from service tax.

It is important to note that Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 grants exemption to health care services provided **by** a clinical establishment and not to services provided **to** a clinical establishment. Only services provided by common bio-medical waste treatment facility operates to clinical establishments by way of treatment or disposal of bio medical waste or the processes incidental thereto are exempt from payment of service tax. Therefore, Good Health Medical Centre’s contention that since it is a clinical establishment, all the services provided to it are also exempt from service tax is not correct in law.

**Question 2**

An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any service tax.
Answer

Services provided to a recognized sports body by an individual *inter alia* as a referee in a sporting event organized by a recognized sports body is exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt under the said notification. However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, service tax will be payable in this case.

Question 3

*RXL Pvt. Ltd. manufactures beauty soap with the brand name ‘Forever Young’. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert will be donated to a charitable organization.*

*Explain whether Ms. Ahana Kapoor will be required to pay any service tax.*

Answer

Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of ‘Forever Young’ soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to service tax. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

Question 4

*High Alps Cable Car Co. runs a cable car to transport pilgrims uphill to a mountain top where a holy shrine is situated. Examine whether High Alps Cable Car Co. is required to pay any service tax.*

Answer

With effect from 01.04.2016, the exemption available to transportation of passengers, with or without accompanied belongings by, *inter alia*, a ropeway, cable car or aerial tramway vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 has been withdrawn.
Therefore, service tax is payable in case of transporting of pilgrims by cable car to the holy shrine situated at the mountain top. It may be noted that service tax is payable irrespective of the purpose of transport of the passengers i.e., religious or otherwise.

**Question 5**

**ABC Ltd., a carrying and forwarding agency, started its operations on August 1, 20XX. It utilized the services of Big Carriers, a goods transport agency, in the month of September, 20XX. Big Carriers have communicated to ABC Ltd. that service tax on the services provided by them is required to be paid by ABC Ltd. under reverse charge. However, ABC Ltd. has communicated to Big Carriers that it is eligible for small service provider (SSP) exemption in the current financial year. Consequently, it will not pay service tax under reverse charge also.**

You are required to critically examine each stand of the two parties and arrive at the final conclusion.

**Answer**

**Stand taken by Big Carriers:** Entire service tax payable on services provided by a goods transport agency is liable to be paid by service receiver if the person who pays freight is, *inter alia*, a body corporate. Thus, the stand taken by Big Carriers is correct in law.

**Stands taken by ABC Ltd.:** Notification No. 33/2012 ST dated 20.06.2012 exempts taxable services of aggregate value not exceeding `10 lakh in any financial year from service tax, if the aggregate value of taxable services rendered by service provider, from one or more premises, does not exceed `10 lakh in the preceding financial year. This exemption is called as small service provider (SSP) exemption.

Since, ABC Ltd. has started its operations in the current financial year, it will be eligible for SSP exemption in the said financial year as the turnover of services in the previous year would be nil (less than 10 lakh). Thus, stand of ABC Ltd. to the extent that it is eligible for SSP exemption is correct in law.

However, it is to be noted here that such exemption is in respect of services provided and not services received. Further, liability of service provider and service recipient are different and independent of each other. Thus, whereas ABC Ltd. can enjoy the benefit of SSP exemption in respect of services provided by it, it cannot avail the same benefit in respect of services received by it. Hence, ABC Ltd.’s contention that since it enjoys SSP exemption, it is not required to pay service tax under reverse charge also, is not correct. It shall have to pay service tax on goods transport agency’s services received by it from Big Carriers under reverse charge.

**Question 6**

* D & Co. has been providing taxable services for past few years. Value of taxable services provided by it during financial year 2013-14 and 2014-15 is `12 lakh and `8.75 lakh respectively. During financial year 2015-16, it provided services having value of `13 lakh. Calculate the service tax liability of D & Co. for financial year 2015-16.*
5.5 Indirect Taxes

Answer

Small service providers who provide taxable services of aggregate value not exceeding ₹ 10,00,000 in the preceding financial year are exempt from payment of service tax on taxable services of aggregate value not exceeding ₹ 10,00,000 in the current financial year.

Since in FY 2014-15, value of taxable services provided by D & Co is ₹ 8.75 lakh, it will be eligible for small service provider exemption in FY 2015-16.

**Computation of service tax payable by D & Co. for the FY 2015-16**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of taxable services</td>
<td>13,00,000</td>
</tr>
<tr>
<td>Less: Exemption for small services provider</td>
<td>10,00,000</td>
</tr>
<tr>
<td>Value of taxable services on which service tax is payable</td>
<td>3,00,000</td>
</tr>
<tr>
<td>Service Tax @ 14%</td>
<td>4,200</td>
</tr>
<tr>
<td>Add: SBC @ 0.5% (₹ 3,00,000 x 0.5%)</td>
<td>1,500</td>
</tr>
<tr>
<td>KKC @ 0.5% (₹ 3,00,000 x 0.5%)</td>
<td>1,500</td>
</tr>
<tr>
<td><strong>Service tax payable (including SBC &amp; KKC)</strong></td>
<td>45,000</td>
</tr>
</tbody>
</table>

**Question 7**

Mr. Sinha has travelled by air from Delhi to Mumbai in economy class. The Airlines has charged ₹ 1,470 as service tax from Mr. Sinha. The Airlines does not avail CENVAT credit on inputs and capital goods used for providing the taxable service.

Compute the value of taxable service provided by the airlines.

**Answer**

Notification No. 26/2012 ST dated 20.06.2012 provides that transport of passengers by air in economy class, with or without accompanied belongings is eligible for 60% abatement of the value of taxable service if CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. In other words, service tax is payable on 40% of the value of taxable service in this case, thus making the effective rate of service tax as 6% [40 x 15%].

Since in the given case, the Airlines complies with the requisite condition for availing abatement, effective rate of service tax charged by it would be 6%. Thus, value of taxable service rendered by the Airlines is ₹ 24,500 [₹ 1,470 /6 x 100].

**Question 8**

Determine the applicability of service tax in each of the following independent cases:

(i) External asset management services received by Reserve Bank of India from overseas financial institutions.
(ii) Service provided by an Indian tour operator to Mr. B, a Japanese National, for a tour conducted in Europe.

(iii) Services provided to a Higher Secondary School affiliated to CBSE Board by an IT company in relation to development of a software to be used for enhancing the quality of classroom teaching.

Answer

(i) Exempt. Services received by Reserve Bank of India from outside India in relation to management of foreign exchange reserves are exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. External asset management services received by Reserve Bank of India from overseas financial institutions is a specialized financial service in the course of management of foreign exchange reserves.

(ii) Exempt. Services provided by an Indian tour operator to a foreign tourist in relation to a tour wholly conducted outside India are exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

(iii) Taxable. Only the following specific services provided TO an educational institution are exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012:

(a) transportation of students, faculty and staff;
(b) catering, including any mid-day meals scheme sponsored by the Government;
(c) security or cleaning or house-keeping services performed in such educational institution;
(d) services relating to admission to, or conduct of examination by, such institution.

Further, an educational institution inter alia means an institution providing services by way of education up to higher secondary or equivalent. However, the services of a development of software provided to an educational institution are not covered under any of the specific services given above. Thus, service tax will be payable in this case.

Question 9

Mr. Kapur has taken a tour for Australia from Great Tours, a tour operator for booking accommodation and air tickets. Great Tours has raised a bill of ₹2,50,000 for the said tour. The bill indicates that it is inclusive of service charges of Great Tours for arranging the said tour and amount charged in the bill is the gross amount charged for such a tour.

Mr. Kapur intends to visit New Zealand after vacationing in Australia. However, he wants to explore New Zealand without any fixed itinerary and thus has asked Great Tours to arrange only for his accommodation in New Zealand. Great Tours has raised a bill of ₹1,00,000 for
the said accommodation. The bill indicates that it includes the cost of such accommodation as well as the service charges of Great Tours for arranging the said accommodation.

Great Tours does not avail CENVAT credit on inputs, capital goods and input services used for providing taxable service. Compute the total amount of service tax charged by Great Tours from Mr. Kapur.

Answer

Notification No. 26/2012 ST dated 20.06.2012 provides that services by a tour operator in relation to a tour other than a tour, only for the purpose of arranging or booking accommodation for any person is eligible for 70% abatement of the value of taxable service if-

(i) CENVAT credit on inputs, capital goods and input services (other than the input service of a tour operator), used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

(ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour and the amount charged in the bill is the gross amount charged for such a tour.

In other words, service tax is leviable on 30% of the value of taxable service in this case, thus making the effective rate of service tax as 4.5% [30 x 15%].

Since in the given case, Great Tours provides a tour for both accommodation as well as air tickets and complies with the requisite conditions for availing abatement, effective rate of service tax charged by it would be 4.5%. Thus, service tax charged by Great Tours from Mr. Kapur on tour to Australia is ₹ 11,250 [₹ 2,50,000 x 4.5%].

Further, the above-mentioned notification also provides that if the tour operator is providing services only for the purpose of arranging or booking accommodation for any person in relation to a tour, the eligible abatement is 90% of the value of taxable service if the following conditions are fulfilled:

(i) CENVAT credit on inputs, capital goods and input services (other than the input service of a tour operator), used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation.

Furthermore, this abatement is not available if the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.

In other words, service tax is leviable on 10% of the value of taxable service in this case, thus making the effective rate of service tax as 1.5% [10 x 15%].

Since in case of New Zealand tour, Great Tours has only booked the accommodation (not provided any other service) and also the requisite conditions for availing the abatement are fulfilled, effective rate of service tax charged by it would be 1.5%. Thus, service tax charged...
by Great Tours from Mr. Kapur for booking accommodation in respect of New Zealand tour is
\[ \text{₹} 1,500 \times 1.5\% \].
Therefore, total amount of service tax charged by Great Tours from Mr. Kapur is
\[ \text{₹} 12,750. \]

**Question 10**

Well-Being Hospital has received the following amounts in the month of June, 20XX in lieu of various services rendered by it in the same month. You are required to determine its service tax liability for June, 20XX from the details furnished below:-

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Particulars</th>
<th>₹ (in lakh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells</td>
<td>24</td>
</tr>
<tr>
<td>(ii)</td>
<td>Hair transplant services</td>
<td>100</td>
</tr>
<tr>
<td>(iii)</td>
<td>Naturopathy treatments. Such treatment is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010</td>
<td>80</td>
</tr>
<tr>
<td>(iv)</td>
<td>Plastic surgery to restore anatomy of a child affected due to an accident.</td>
<td>30</td>
</tr>
<tr>
<td>(v)</td>
<td>Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010</td>
<td>120</td>
</tr>
<tr>
<td>(vi)</td>
<td>Mortuary services</td>
<td>10</td>
</tr>
</tbody>
</table>

Well-Being Hospital does not have its own ambulances so it avails ambulance services from Life Savers, an ambulance service provider, to transport critically ill patients from various locations to the Hospital. Examine whether Life Savers would be charging any service tax from Well Being Hospital on the services provided by them.

**Note**: All the amounts given above are exclusive of service tax and cesses. Further, Well-Being Hospital is not eligible for the small service provider’s exemption under Notification No. 33/2012-ST dated 20.06.2012. Point of taxation for the services rendered by Well-Being Hospital in the month of June, 20XX fall in the month of June itself.

**Answer**

**Computation of service tax liability of Well-Being Hospital for the month of June, 20XX**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹ (in lakh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services provided by cord blood bank by way of preservation of stem cells [Note-2]</td>
<td>-</td>
</tr>
</tbody>
</table>
5.9   Indirect Taxes

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Value ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hair transplant services [Note-1(a)]</td>
<td>1,00</td>
</tr>
<tr>
<td>Naturopathy treatments [Note-1(b)]</td>
<td>-</td>
</tr>
<tr>
<td>Plastic surgery to restore anatomy of a child affected due to an accident [Note-1(c)]</td>
<td>-</td>
</tr>
<tr>
<td>Pranic healing treatments [Note-1(d)]</td>
<td>1,20</td>
</tr>
<tr>
<td>Mortuary services [Note 3]</td>
<td>-</td>
</tr>
</tbody>
</table>

Value of taxable service: $2,20,00,000

Service tax @ 14% \( \times \) $2,20,00,000 = $30,800

Add: SBC @ 0.5% \( \times \) $2,20,00,000 = $1,100

Add: KKC @ 0.5% \( \times \) $2,20,00,000 = $1,100

Service tax liability (including SBC & KKC): $33,000

Notes:

(1) Health care services provided by, inter alia, a clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

   (a) Hair transplant services are specifically excluded from the health care services, and thus are not eligible for exemption.

   (b) Since naturopathy is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010, it would be eligible for exemption.

   (c) Health care service does not include *inter alia* cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. Hence, plastic surgery to restore anatomy of a child affected due to an accident will be eligible for exemption.

   (d) Since pranic healing treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010, it would not be eligible for exemption.

(2) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are also exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

(3) Mortuary services are covered under negative list of services under section 66D of the Finance Act, 1994. Hence, the same are not liable to service tax.

Services by way of transportation of the patient to and from a clinical establishment are specifically included in the definition of health care services. Thus, ambulance services to transport critically ill patients from various locations to Well Being Hospital are eligible for...
Exemptions and Abatements  5.10

exemption. Furthermore, ambulance services provided by an entity which is not a clinical establishment or an authorised medical practitioner or paramedics are also exempt from service tax vide a separate entry in the Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. Therefore, ambulance services provided by Life Savers will also be exempt from service tax. Thus, Life Savers will not charge any service tax from Well Being Hospital on the ambulance services rendered by them.

Question 11

Examine the validity of following statements with reference to service tax law:

(i) Consultancy services provided to Government in relation to slum improvement and upgradation is exempt from service tax.

(ii) The transport of goods in a vessel from Mumbai Port to Goa Port attracts service tax at 40% of the gross amount charged.

(iii) Both service providers and service receivers need to satisfy the condition of non-availment of CENVAT credit for claiming abatement in case of GTA service.

Answer

(i) The said statement is not valid. Mega Exemption Notification No. 25/2012 ST dated 20.06.2012, provides that services provided, inter alia, to Government by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation are exempt but the exemption is not extendable to other services such as consultancy, designing, etc., not directly connected with these specified services.

(ii) The said statement is not valid. Abatement Notification No. 26/2012 ST dated 20.06.2012 provides an abatement of 70% in respect of transport of goods in a vessel. Thus, transport of goods in a vessel from Mumbai Port to Goa Port would attract service tax at 30% of the value of taxable service provided CENVAT on inputs and capital goods has not been taken.

(iii) The said statement is not valid. Abatement Notification No. 26/2012 ST dated 20.06.2012 provides that the condition for non-availment of CENVAT credit is required to be satisfied by the service providers only.

Question 12

Discuss whether the following services are chargeable to service tax or not:

(i) Paddy milled into rice on job work basis.

(ii) A hockey player gets fees from Indian Hockey Federation for participating in an international event.

(iii) Sonakshi Sinha, a brand ambassador of Colgate Palmolive Ltd., gets ₹ 15,00,000 for advertising its products.
5.11  Indirect Taxes

Answer

(i) Carrying out an intermediate production process as job work in relation to agriculture is exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. Paddy milled into rice, on job work basis is exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture.

(ii) Services provided to a recognized sports body by, inter alia, an individual as a player for participation in a sporting event organized by a recognized sports body are exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. If, the international event is organized by a recognized sports body (since Indian Hockey Federation is a national sports federation, it is a recognized sports body), the fee received by the hockey player towards the sports service provided by him will be exempt from service tax.

(iii) Services provided by brand ambassadors do not enjoy any exemption and are liable to service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.06.2012. Therefore, service tax will be payable on ₹ 15,00,000 received by Sonakshi Sinha, the brand ambassador for Colgate Palmolive Ltd., for advertising the products of the company.

Question 13

Armaan travelled by air in business class on 15.04.20XX, by Origin Airlines. He booked the ticket on the same day. The airfare charges (value on which service tax was payable) was ₹ 1,00,000. Determine the amount of service tax payable on the service received by Armaan assuming that:

(a) Origin Airlines opted for abatement under Notification No. 26/2012 ST dated 20.06.2012 and did not avail CENVAT credit on inputs and capital goods used for providing such service,

(b) Origin Airlines is not eligible for small service provider’s exemption under Notification No. 33/2012 ST dated 20.06.2012.

Answer

Notification No. 26/2012 ST dated 20.06.2012 provides that service of transport of passengers by air, with or without accompanied belongings in other than economy class is eligible for 40% abatement of the value of taxable service on the condition of non-availment of CENVAT credit on inputs and capital goods used for providing the taxable service. Therefore, service tax will be payable on 60% of the value of airfare charges in such higher classes. Hence, in the given case, service tax will be payable on 60% of the value of airfare charges paid by Armaan on 15.04.20XX in the following manner:

\[
\text{Service tax} = (\text{₹ 1,00,000 } \times 60\%) \times 15\% \text{(inclusive of SBC and KKC)} \\
= \text{₹ 9,000.}
\]
Question 14

Examine the following independent services provided in the month of August, 20XX and determine the amount of service tax payable, if any, in each of these cases:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Particulars</th>
<th>(`)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Services by way of waxing of apples to provide it an artificial sheen for increasing its marketability</td>
<td>1,00,000</td>
</tr>
<tr>
<td>2.</td>
<td>Admission to a Railway Museum</td>
<td>50,000</td>
</tr>
<tr>
<td>3.</td>
<td>Transportation of patients to ABC Nursing Home and Bheem Multispecialty Hospital, in an ambulance owned by XYZ Ltd.</td>
<td>1,20,000</td>
</tr>
<tr>
<td>4.</td>
<td>Admission to a Telly Award Function [Value per ticket per person is `510]</td>
<td>5,10,000</td>
</tr>
<tr>
<td>5.</td>
<td>Transportation of milk by a goods transport agency</td>
<td>1,50,000</td>
</tr>
</tbody>
</table>

Note: Ignore small service providers’ exemption. Wherever applicable, service tax and cesses have been charged separately.

Answer

Computation of service tax payable

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Particulars</th>
<th>Value of taxable services (`)</th>
<th>Service tax liability (including SBC &amp; KKC) (`)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Services by way of waxing of apples to provide it an artificial sheen for increasing its marketability [Note 1]</td>
<td>Nil</td>
<td>1,00,000 x 5% = 50,000</td>
</tr>
<tr>
<td>2.</td>
<td>Admission to a Railway Museum [Note 2]</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>3.</td>
<td>Transportation of patients to ABC Nursing Home and Bheem Multispecialty Hospital, in an ambulance owned by XYZ Ltd. [Note 3]</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>4.</td>
<td>Admission to a Telly Award Function [Note 4]</td>
<td>5,10,000</td>
<td>5,10,000 x 15% = 76,500</td>
</tr>
<tr>
<td>5.</td>
<td>Transportation of milk by a goods transport agency [Note 5]</td>
<td>Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>
5.13 **Indirect Taxes**

**Notes:**
As per mega exemption Notification No. 25/2012 ST dated 20.06.2012:

1. services by way of waxing of fruits which do not change/alter the essential characteristics of the said fruits are exempt from service tax.
2. services provided by way of admission to a museum are exempt from service tax.
3. ambulance services provided by an entity which is not a clinical establishment or an authorised medical practitioner or paramedics are also exempt from service tax.
4. service by way of admission to award functions is exempt from service tax if the amount charged is up to ₹ 500 per person for right to admission to such event. In case the amount charged per person exceeds ₹ 500, entire consideration would be liable to service tax.
5. services of transportation of milk, salt and food grain including flours, pulses and rice by a goods carriage are exempt from service tax.

**Question 15**
Kesar Maharaj, a renowned classical dancer gave a classical dance performance in an auditorium. The consideration charged for the said performance is ₹ 98,500. Is Kesar Maharaj liable to pay service tax on the consideration received for the said performance if such performance is not for promotion of any product/services? If yes, determine his service tax liability. Will your answer be different if:

(i) consideration charged by Kesar Maharaj for the said performance is ₹ 1,60,000?

(ii) Kesar Maharaj is a brand ambassador of a food product and aforesaid performance is for the promotion of such food product?

(iii) Kesar Maharaj gives a contemporary Bollywood style dance performance?

*Note: Ignore small service providers’ exemption. Wherever applicable, service tax and cesses have been charged separately.*

**Answer**
Mega exemption Notification No. 25/2012 ST dated 20.06.2012 exempts services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, if the consideration charged for such performance is not more than ₹ 1,50,000. However, exemption will not apply to service provided by such artist as a brand ambassador.

In view of the aforesaid provisions, services provided by Kesar Maharaj are exempt from service tax as consideration for the classical dance performance has not exceeded ₹ 1,50,000. Therefore, his service tax liability is nil.

(i) If the consideration charged for the said performance by Kesar Maharaj is ₹ 1,60,000, he will be liable to pay service tax on the same as although the performance is by way of
classical art form of dance, consideration charged for such performance has exceeded ₹ 1,50,000. His service tax liability would, therefore, be ₹ 24,000 (₹ 1,60,000 × 15%).

(ii) If Kesar Maharaj is a brand ambassador of a food product and aforesaid performance is for the promotion of such food product, he will be liable to pay service tax as aforesaid exemption is not applicable to service provided by an artist as a brand ambassador. His service tax liability (including SBC & KKC) would, therefore, be ₹ 14,775 (₹ 98,500 × 15%).

(iii) If Kesar Maharaj gives a contemporary Bollywood style dance performance, such performance will not be eligible for aforesaid exemption. The reason for the same is that although the consideration charged does not exceed ₹ 1,50,000, said performance is not in folk or classical art forms of dance. Hence, service tax would be payable on the same. His service tax liability (including SBC & KKC) would, therefore, be ₹ 14,775 (₹ 98,500 × 15%).

Question 16

With reference to the provisions of Finance Act, 1994, whether service tax is payable in the following independent cases:—

(a) Sarvshiksha, an Educational Trust, runs a play school, ‘Tiny Tots’ for providing pre-school education.

(b) ‘Pinnacle Academy’ provides educational services upto higher secondary school.

(c) “Mahajan Classes”, a coaching centre provides coaching for IIT JEE entrance examinations to meritorious students of economically weak background.

(d) “Global Point”, an institution provides coaching classes for examinations of Certified Public Accountant, USA.

Answer

Mega exemption Notification No. 25/2012 ST dated 20.06.2012 exempts services provided inter alia by an educational institution to its students, faculty and staff. Further, an “Educational Institution” means an institution providing services by way of inter alia —

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

(a) Service tax will not be payable on education services rendered by the play school (pre-school), ‘Tiny Tots’ as “Sarvshiksha” comes under the definition of educational institution and services provided by it are exempt from service tax. 

(b) Service tax will not be payable in this case as ‘Pinnacle Academy’ is covered under the definition of educational institution and services provided by it are exempt from service tax.
5.15 Indirect Taxes

(c) Service tax will be payable by coaching centre providing coaching for IIT JEE entrance examination as coaching given by private coaching institutes/centres is not a part of a curriculum for obtaining recognized qualification, the same is not covered under the definition of educational institution. Also, it is immaterial that coaching is given to economically weak students or for a national level entrance examination.

(d) Service tax will be payable by Global Point as coaching given by private coaching institutes/centres is not a part of a curriculum for obtaining recognized qualification, the same is not covered under the definition of educational institution. Only services provided inter alia by an educational institution to its students, faculty and staff are exempt from service tax.

Question 17

Industrial Training Institute (ITI), Manikpuri offers a short term Modular Employable Skill Course in the Information & Communication Technology Sector. The said course is approved by the National Council of Vocational Training (NCVT). ITI, Manikpuri is registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship. Revenue raised a demand for service tax on the services provided by ITI Manikpuri.

Examine whether the demand raised by Revenue is correct in law.

Answer

Mega exemption Notification No. 25/2012 ST dated 20.06.2012 exempts services provided inter alia by an educational institution to its students, faculty and staff. Further, an “Educational Institution” means an institution providing services by way of inter alia education as a part of an approved vocational education course.

A Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship is, inter alia, an approved vocational education course.

Since, ITI Manikpuri falls under the definition of educational institution as the course offered by it is covered under the definition of approved vocational education course, the services provided by ITI Manikpuri will be exempted from service tax.

Therefore, the demand raised by Revenue is not correct in law.

Question 18

With reference to the provisions of service tax law, briefly examine the service tax implications in the following independent cases:-

(a) AB Pvt. Ltd. manufactures alcoholic liquor for human consumption on job-work basis.
(b) Splash and Splutter is a water park. It charges ₹ 500 per person as entry fee.
Answer

(a) Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption are covered in the Negative List of services under section 66D of the Finance Act, 1994.

Further, Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 provides exemption for carrying out an intermediate production process as job work in relation to any goods excluding alcoholic liquor for human consumption on which appropriate duty is payable by the principal manufacturer.

Consequently, service tax would be leviable on manufacture of alcoholic liquor for human consumption on job-work basis by AB Pvt. Ltd.

(b) Entry fee to Splash and Splutter water park (being an entry to amusement facility) will be chargeable to service tax as this is neither covered under negative list of services under section 66D of the Finance Act, 1994 nor under Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

Exercise

1. Briefly explain any five exemptions given vide mega exemption notification.
2. What do you understand by small service providers’ exemption? Explain the conditions for availing the said exemption.
3. Briefly discuss the provisions governing refund of service tax paid by an exporter under reverse charge.
4. Write a short note on exemption provided to services received by a developer/unit of SEZ.
5. Enlist five abatements granted to taxable services vide Notification No. 26/2012 ST dated 20.06.2012 and explain the conditions which are required to be fulfilled for availing the said abatements.