6

Service Tax Procedures

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

**Question 1**

Pinnacle Academy, an IIT JEE coaching institution, has its centres in various cities across the country from where coaching is provided to students. Its Head Office is located at New Delhi. Pinnacle Academy wants to apply for service tax registration. In what ways can Pinnacle Academy obtain registration? Explain.

**Answer**

As per rule 4 of Service Tax Rules, 1994, where a person, liable for paying service tax on a taxable service provides such service from more than one premises or offices and has centralised billing/accounting system in respect of such service, and such centralised billing/accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralised billing/accounting systems are located.

However, if such assessee does not have any centralized billing/accounting systems, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise. The registration for a single premises shall be applied by making an online application at ACES website of CBEC.

Therefore, since Pinnacle Academy provides coaching from different centres spread across the country, it can opt for centralized registration if it has centralized billing/accounting system located at one or more of its centres. However, if it does not have any centralized billing/accounting systems, it shall have to obtain separate registration for each of its centres.

**Question 2**

X is a consulting engineer. He has obtained service tax registration on April 3, 20XX. X has entered into a contract with Y for provision of consulting services on April 4, 20XX. X provides the services on April 15, 20XX but Y has communicated that he will be able to pay the consideration only after six months owing to his poor financial condition.

X has not issued any invoice or bill for the said service as he is not sure of the requirements of an invoice issued by a registered service tax provider. You are required to guide X with regard to content and time of issuance of an invoice.
Answer

Rule 4A of Service Tax Rules, 1994 contains the provisions in respect of invoices to be issued by every person providing taxable service.

In terms of that rule, X has to issue an invoice or a bill, or a challan signed by him or a person authorized by him in respect of taxable service provided by him. The invoice, bill or challan should contain the following details and be serially numbered:

(i) Name, address and the registration number of X;
(ii) Name and address of Y (person receiving taxable service);
(iii) Description of taxable service provided or agreed to be provided;
(iv) Value of taxable service provided or agreed to be provided and
(v) Service tax payable thereon.

Such an invoice has to be issued within 30 days from the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier. Since X will receive the payment for the services only after six months, he should issue the invoice latest by May 15, 20XX i.e., within 30 days from April 15, 20XX (date of completion of such taxable service).

Question 3

MBM Caretakers, a service tax assessee, provides the services of repair and maintenance of electrical appliances. On April 1, 2016, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided in the first week of each quarter of the financial year 2016-17 and payment for the same will also be charged quarterly after completion of such services in each quarter. Services were provided during the year 2016-17 on April 4, July 2, October 3, and January 3. When should MBM Caretakers issue the invoice for the services rendered?

Answer

Continuous supply of service means *inter alia* any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time.

Therefore, the above situation is a case of continuous supply of service as repair and maintenance services provided by MBM Caretakers have been provided on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of rule 4A of Service Tax Rules, 1994, in case of continuous supply of service, every person providing such taxable service has to issue an invoice, bill or challan, as the case may
6.3 Indirect Taxes

be, within 30 days of the date when each event specified in the contract, which requires the service receiver to make any payment to service provider, is completed.

Therefore, since the contract requires P to make payment on completion of services provided in each quarter, MBM Caretakers should issue quarterly invoices latest by May 4, August 1, November 2 and February 2 (within 30 days of April 4, July 2, October 3, and January 3).

Question 4

Mr. A sponsored a dance competition organized by ‘Taal Academy’, a dance school run by an individual. The dance competition was named as ‘Mr. A’s Dance Show’ by ‘Taal Academy’. Who is liable to pay service tax in this case? Will your answer be different if ‘Taal Academy’ is run by a partnership firm?

Answer

In case of taxable service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, person liable to pay service tax is the person receiving such service.

However, since in the given case sponsorship service is provided to an individual (Mr. A), the person liable to pay service tax will be service provider i.e., ‘Taal Academy’. Further, since the status of service receiver is relevant for determining as to who would pay service tax, status of service provider is immaterial. Therefore, as long as sponsorship service is rendered to an individual, service tax will be payable by service provider i.e., ‘Taal Academy’ irrespective of whether the same is run by an individual or a partnership firm.

Question 5

Answer the following questions:

(i) Mr. T, an architect, hires a cab from Mr. S, who is engaged in the business of renting of motor cabs. Value of services provided by Mr. S is ₹ 3,000. Mr. S avails CENVAT credit on inputs and capital goods. Who is liable to pay service tax in this case? Will your answer be different if RST Ltd., a manufacturing company, hires the cab from Mr. S?

Also, compute the amount of service tax payable assuming that Mr. S is not eligible for small service providers’ exemption.

Note: Mr. T, Mr. S and RST Ltd. are located in Mumbai and wherever applicable, service tax and cesses have been charged separately.

(ii) PQR Ltd., a manufacturing company, hires a cab from Mr. M, who is engaged in the business of renting of motor cabs. Value of services provided by Mr. M is ₹ 3,000 and service tax payable thereon is ₹ 180. Who is liable to pay service tax in this case?

Note: PQR Ltd and Mr. M are located in New Delhi and wherever applicable, service tax and cesses are charged separately.
Answer

(i) In case of renting of motor cabs, abatement of 60% from gross amount charged is available if CENVAT credit on inputs, capital goods and input services, other than input service of renting of motorcab, is not availed. Therefore, since in the given case, Mr. S avails CENVAT credit on inputs and capital goods, it cannot pay service tax on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; both service provider and service receiver are liable to pay service tax. 50% of tax is to be paid by service provider and 50% by service receiver.

Since in the given case, service by way of renting of motor cabs is provided by an individual (Mr. S) to another individual (Mr. T) and not to any body corporate, reverse charge provisions will not apply and entire service tax will be payable by service provider (Mr. S). Thus, service tax of ₹ 450 (15% of ₹ 3,000) is liable to be paid by Mr. S.

However, when motor cab is taken on rent by RST Ltd. (a company), reverse charge provisions will apply and 50% of tax will be paid by Mr. S (service provider) and 50% by RST Ltd. (service receiver). Thus, Mr. S will pay ₹ 225 and RST Ltd. will pay ₹ 225.

(ii) In case of renting of motor cabs, abatement of 60% is available from gross amount charged on fulfillment of certain conditions. In other words, effective rate of service tax in case of renting of motor cabs provided on abated value is 6% [15% of 40%]. Since in the given case service tax payable is 6% of the value of taxable service [(₹ 180 / ₹ 3000) x 100 = 6%], service tax is payable on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; entire service tax is liable to be paid by service receiver.

Since in the given case, renting of motor cab service is provided to a company (PQR Ltd.), reverse charge provisions will apply and entire service tax will be payable by service receiver (PQR Ltd.). Thus, service tax of ₹ 180 (6% of ₹ 3,000) is liable to be paid by PQR Ltd.

Question 6

A tour operator booked a tour for a client. He billed the client for his services, but did not charge any service tax though he is liable to pay service tax under the relevant provisions. It
is the contention of the operator that since he has not collected any service tax from the client, he will not deposit the same with the Government. On the basis of said information, answer the following questions:

(i) Do you think the contention of the tour operator is correct in law? Explain.

(ii) In case the tour operator is liable to pay service tax, how will the service tax liability be determined?

Answer

(i) Section 68 of Finance Act, 1994 casts the liability to pay service tax upon the service provider. This liability is not contingent upon the service provider realizing or charging service tax at the prevailing rate. Statutory liability does not get extinguished if service provider fails to realize or charge service tax from service receiver.

Therefore, action taken by tour operator is not correct in law. He will have to deposit service tax even if he has not collected the same from his client.

(ii) The amount received by the tour operator from the service receiver will be taken to be inclusive of service tax. Accordingly, service tax payable by the tour operator shall be ascertained by making back calculations in the following manner:

\[
\text{Service tax payable (including cesses)} = \frac{\text{Amount billed} \times \text{Service tax rate (including cesses)}}{100 + \text{Service tax rate including cesses}}
\]

Question 7

‘Service tax cannot be paid provisionally’. Examine the correctness of the statement.

Answer

The statement is not correct. If an assessee is, for any reason, unable to correctly estimate, at the time of the deposit, the actual amount payable for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise giving reasons for payment of service tax on provisional basis. On receipt of such request, the Assistant/Deputy Commissioner of Central Excise may allow payment of service tax on provisional basis on such value of taxable service as may be specified by the assessee for making payment of service tax on provisional basis. Provisions of Central Excise Rules, 2002 relating to provisional assessment apply in case of provisional payment of service tax also, except the provisions relating to execution of bond.

Question 8

Mr. Saravanan, a service provider, has collected a sum of ₹ 15,000 as service tax from a client mistakenly, even though no service tax was chargeable on the service rendered by him.
Mr. Saravanan has not refunded such amount to the client. Should the amount so collected be remitted to the credit of the Central Government? Explain.

Answer
Section 73A of the Finance Act, 1994 casts an obligation on every person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, to forthwith remit the same to the credit of the Central Government.

Hence, Mr. Saravanan has to remit the amount collected mistakenly as service tax to the credit of the Central Government.

Question 9
Mr. Vasudevan has conducted a market survey for Mr. Subramanian. However, Mr. Vasudevan has not charged any fee for such services as Mr. Subramanian happens to be his best friend. Is service tax payable on such free service? Explain.

Answer
Section 67 and Service Tax (Determination of Value) Rules, 2006 make provisions for valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 and Service Tax (Determination of Value) Rules, 2006 cannot apply.

Thus, no service tax is payable when value of service is zero. In other words, if the value is zero, the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a ‘free service’ and not when its cost is recovered through other means.

Therefore, service tax is not payable on service rendered by Mr. Vasudevan to Mr. Subramanian as Mr. Vasudevan has not charged any fee from Mr. Subramanian.

Question 10
Mr. M is a money changer. He is finding it difficult to charge service tax at the rate specified in section 66B of the Finance Act, 1994 on the value of services provided by him. Can he pay service tax at a different rate? Explain.

Answer
Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, has an option to pay an amount at the following rates instead of paying service tax at the rate specified in section 66B of the Finance Act, 1994:-

<table>
<thead>
<tr>
<th>For an amount</th>
<th>Service tax shall be calculated at the rate of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upto ₹ 1,00,000</td>
<td>0.14 % of the gross amount of currency exchanged</td>
</tr>
<tr>
<td></td>
<td>or</td>
</tr>
<tr>
<td></td>
<td>₹ 35</td>
</tr>
</tbody>
</table>
6.7 Indirect Taxes

<table>
<thead>
<tr>
<th></th>
<th>whichever is higher</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeding ₹ 1,00,000 and upto ₹ 10,00,000</td>
<td>₹ 140 + 0.07% of the (gross amount of currency exchanged - ₹ 1,00,000)</td>
</tr>
<tr>
<td>Exceeding ₹ 10,00,000</td>
<td>₹ 770 + 0.014% of the (gross amount of currency exchanged - ₹ 10,00,000) or ₹ 7,000 whichever is lower</td>
</tr>
</tbody>
</table>

On the service tax so calculated (as given in the above table), Swachh Bharat Cess will be levied by multiplying the service tax so calculated by (0.5/14). Similarly, Krishi Kalyan Cess will also be levied by multiplying the service tax so calculated by (0.5/14).

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Therefore, Mr. M, being a money changer, has an option to pay service tax at the aforementioned rates.

**Question 11**

Mr. Rajesh Singla is a service tax assessee. His service tax liability for the quarter April - June was ₹ 35,000. However, on account of a clerical error, he paid ₹ 3,50,000 as service tax for the said quarter. Now Mr. Rajesh Singla wants to adjust the excess payment of ₹ 3,15,000 against his service tax liability for the succeeding quarter. Can he do so? What is the condition to be satisfied for it?

**Answer**

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month/quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month/quarter. Such adjustment is subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, valuation or applicability of any exemption notification.

Since Mr. Rajesh Singla has paid the excess amount on account of a clerical error, he can adjust the excess payment of ₹ 3,15,000 against his service tax liability for the succeeding quarter.

**Question 12**

S Ltd. is liable to pay service tax of ₹ 10,000 for the month of September, 20XX. It had discharged its service tax liability for the preceding financial year by paying ₹ 70,000 in cash and utilizing CENVAT credit of ₹ 20,000. Is it required to deposit service tax for the month of September, 20XX electronically?
Answer

Service Tax Rules, 1994 provide that e-payment of service tax is compulsory for all assesses irrespective of the quantum of service tax paid in the previous financial year. Hence, S Ltd. will be required to deposit service tax for the month of September, 20XX electronically.

Question 13

Mr. U is an air travel agent, who discharges his service tax liability at special rates provided under rule 6(7) of the Service Tax Rules, 1994. Compute his service tax liability for the quarter July – September, 20XX with the help of following particulars furnished by him:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Basic fare as per rule 6(7) of Service Tax Rules, 1994 (₹)</th>
<th>Other charges and fee (₹)</th>
<th>Taxes (₹)</th>
<th>Total value of tickets (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Bookings</td>
<td>1,00,900</td>
<td>9,510</td>
<td>4,990</td>
<td>1,15,400</td>
</tr>
<tr>
<td>International Bookings</td>
<td>3,16,880</td>
<td>20,930</td>
<td>15,670</td>
<td>3,53,480</td>
</tr>
</tbody>
</table>

Mr. U wants to pay service tax at the general rate of 15% (including cesses) in respect of bookings done by him during the quarter October-December, 20XX. Can he do so? Explain.

Answer

Computation of service tax liability of Mr. U for the quarter July-September, 20XX

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic fare in case of domestic bookings</td>
<td>1,00,900</td>
</tr>
<tr>
<td>Service tax @ 0.7% [A] Refer Note 1</td>
<td>706.30</td>
</tr>
<tr>
<td>Basic fare in case of international bookings</td>
<td>3,16,880</td>
</tr>
<tr>
<td>Service tax @ 1.4% [B] Refer Note 1</td>
<td>4,436.32</td>
</tr>
<tr>
<td>Service tax payable [A] + [B] (rounded off)</td>
<td>5,143</td>
</tr>
<tr>
<td>Add: SBC @ 0.5% (₹ 5,143 x 0.5/14) (rounded off)</td>
<td>184</td>
</tr>
<tr>
<td>KKC @ 0.5% (₹ 5,143 x 0.5/14) (rounded off)</td>
<td>184</td>
</tr>
<tr>
<td>Service tax payable (including SBC &amp; KKC)</td>
<td>5,511</td>
</tr>
</tbody>
</table>

Notes:
1. Rule 6(7) of Service Tax Rules, 1994 provides an option to an air travel agent to pay service tax at special rates of 0.7% and 1.4% of ‘basic fare’ in case of domestic and international bookings for air travel respectively.
2. Since the given basic fare is in terms of rule 6(7) of Service Tax rules, 1994, service tax has been computed as a percentage of such basic fare only and other charges, fee and taxes have been ignored.
6.9 Indirect Taxes

The option once exercised, applies uniformly in respect of all the bookings for air travel made by the air travel agent and cannot be changed during a financial year under any circumstances. Therefore, Mr. U cannot pay service tax @ 15% (including cesses) for the quarter October-December, 20XX and will have to discharge his service tax liability for the said quarter by paying service tax at the special rates mentioned above. However, he can change the option and pay service tax @ 15% (including cesses) from the next financial year.

Question 14

SBM Ltd. provides multiple taxable services. It wants to use a single challan for payment of service tax on various services rendered by it. Please offer your views if SBM Ltd. is permitted to do so under service tax law.

Answer

A multiple service provider (a service provider rendering more than one taxable service) can use single GAR-7 challan for payment of service tax on different services. However, amounts attributable to each such service along with concerned accounting codes should be mentioned clearly in the column provided for this purpose in the GAR-7 challan.

Thus, SBM Ltd. can use a single challan for payment of service tax on various services rendered by it.

Question 15

Determine the interest payable under section 75 of Finance Act, 1994 on delayed payment of service tax from the following particulars:

<table>
<thead>
<tr>
<th>Service tax payable</th>
<th>₹ 60,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Due date of payment</td>
<td>06.06.2016</td>
</tr>
<tr>
<td>Date of payment</td>
<td>06.12.2016</td>
</tr>
</tbody>
</table>

Note: Turnover of services in the preceding financial year was ₹ 80 lakh. Service tax of ₹ 60,500 has been collected from clients before 06.06.2016.

Answer

Section 75 of Finance Act, 1994 levies simple interest on failure to pay service tax by the prescribed due date for the period by which such crediting of tax or any part thereof is delayed. Section 75 of Finance Act, 1994 read with Notification No. 13/2016 ST dated 01.03.2016 provides that in case of collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due, the simple interest @ 24% p.a. is payable. However, in all other cases, 15% simple interest p.a. is payable. Interest payable under section 75 will be computed as under:
Computation of interest payable under section 75

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rate of interest per annum</th>
<th>Interest (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period of delay [07.06.2016-06.12.2016]</td>
<td>24%</td>
<td>₹ 60,500 × 24% × 6/12</td>
</tr>
<tr>
<td>Interest payable</td>
<td></td>
<td>7,260</td>
</tr>
</tbody>
</table>

Since the turnover of the services in the preceding financial year is more than ₹ 60 lakh, concession of 3% on applicable rate of interest cannot be availed.

**Question 16**

Compute the interest payable on delayed payment of service tax by service provider where service tax has not been collected from service receivers in following cases:

<table>
<thead>
<tr>
<th>Name of the service provider</th>
<th>PQR Ltd.</th>
<th>Mr. Manik</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service tax liability</td>
<td>₹ 1,23,600</td>
<td>₹ 2,16,000</td>
</tr>
<tr>
<td>Delay in payment of service tax</td>
<td>20 days</td>
<td>25 days</td>
</tr>
</tbody>
</table>

Aggregate value of taxable services rendered in preceding financial year by PQR Ltd. was ₹ 40,00,000 and by Mr. Manik was ₹ 62,00,000.

**Answer**

Computation of interest on delayed payment of service tax

<table>
<thead>
<tr>
<th>Name of the service provider</th>
<th>PQR Ltd.</th>
<th>Mr. Manik</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service tax liability</td>
<td>₹ 1,23,600</td>
<td>₹ 2,16,000</td>
</tr>
<tr>
<td>Delay in payment of service tax</td>
<td>20 days</td>
<td>25 days</td>
</tr>
<tr>
<td>Value of taxable services in previous financial year</td>
<td>₹ 40,00,000</td>
<td>₹ 62,00,000</td>
</tr>
<tr>
<td>Rate of interest</td>
<td>12% per annum</td>
<td>15% per annum</td>
</tr>
<tr>
<td>Interest (rounded off)</td>
<td>₹ 813 (rounded off)</td>
<td>₹ 2,219 (rounded off)</td>
</tr>
</tbody>
</table>

**Note:** As per section 75 of Finance Act, 1994 read with Notification No. 13/2016 ST dated 01.03.2016 in case of collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due, the simple interest @ 24% p.a. is payable. However, in all other cases, 15% simple interest p.a. is payable. Since in the above case, service tax has not been collected, so simple interest @ 15% p.a. is payable. However, the applicable rate gets reduced by 3% for
service providers whose turnover of services does not exceed ₹ 60 lakh in the preceding financial year.

**Question 17**

Black and White Consulting Group (BWCG), a management consultancy firm, has to file its first service tax return. The firm wants to know if any other information is also required to be furnished by it at the time of filing its first return. You are required to provide the necessary guidance to the firm.

**Answer**

BWCG will be required to furnish to the Superintendent of Central Excise, at the time of filing the return for the first time, a list of following documents in duplicate:

(a) all the records prepared or maintained by the assessee for accounting of transactions in regard to
   (i) providing of any service;
   (ii) receipt or procurement of input services and payment for them;
   (iii) receipt, purchase, manufacture, storage, sale or delivery, as the case may be, in regard to inputs and capital goods;
   (iv) other activities such as manufacture and sale of goods, if any.
(b) all other financial records maintained by him in the normal course of business.

**Question 18**

Mr. M is a service provider and is registered under service tax. He wants to know when and at what intervals he should file a service tax return. You are required to provide the necessary advice to Mr. M.

**Answer**

Service tax return should be filed on half yearly basis by 25th of the month following the particular half-year. The due dates on this basis are:

<table>
<thead>
<tr>
<th>Half year</th>
<th>Due date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st April to 30th September</td>
<td>25th October</td>
</tr>
<tr>
<td>1st October to 31st March</td>
<td>25th April</td>
</tr>
</tbody>
</table>

If due date of filing the return falls on a public holiday, assessee can file the return on immediately succeeding working day.

Further, every assessee will submit an annual return for the financial year to which the return relates by the 30th day of November of the succeeding financial year.
Question 19

Mr. Raju is a multiple service provider and files only a single half yearly return for all the services. State with reasons whether he can do so.

Answer

Yes, Mr. Raju can file single half yearly return for all the services even though he is a multiple service provider. He has to furnish the details in each of the columns of the Form ST-3 separately for each of the taxable services rendered by him. Thus, instead of showing a lumpsum figure for all the services together, service-wise details should be provided in the return.

Question 20

A service provider has not been able to file the half yearly service tax return by the prescribed due date. He is worried and does not know what recourse is available to him in this situation. He seeks your help on the issue. What advice will you offer him?

Answer

Service tax law provides for delayed filing of returns. A half-yearly return can be filed after the due date with prescribed late fee. The prescribed late fee is given hereunder:

<table>
<thead>
<tr>
<th>Period of delay</th>
<th>Late fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 days from the date prescribed for submission of the return</td>
<td>₹ 500</td>
</tr>
<tr>
<td>Beyond 15 days but not later than 30 days from the date prescribed for submission of the return</td>
<td>₹ 1,000</td>
</tr>
<tr>
<td>Beyond 30 days from the date prescribed for submission of the return</td>
<td>An amount of ₹ 1,000 plus ₹ 100 for every day from the 31st day till the date of furnishing the said return.</td>
</tr>
</tbody>
</table>

However, such late fee cannot exceed ₹ 20,000. Further, if the gross amount of service tax payable is nil, such late fee may be reduced/waived by the Central Excise Officer on being satisfied that there was sufficient cause for the delay.

Question 21

Mr. Z is a service provider rendering multiple services. After having filed the half yearly service tax return, Mr. Z noticed an inadvertent error in the return so filed. Mr. Z has approached you for advice on this issue. Examine the situation with reference to relevant statutory provisions.

Answer

Under service tax law, an assessee can submit a revised half yearly return, in Form ST-3, in triplicate, to correct a mistake or omission. Therefore, Mr. Z can submit a revised half yearly
return to correct the inadvertent error. The half yearly return can be revised within a period of 90 days from the date of submission of the original return.

Question 22

Mr. Lavi, a taxable service provider, submitted the return for the half year April – September on 5th October. However, he desires to submit a revised return for the said half year on 20th January of next year to correct a mistake. Examine whether he can do so.

Answer

No, Mr. Lavi cannot file the revised service tax return for the half year April – September on 20th January of next year.

Under service tax law, an assessee can submit a revised half yearly return, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return. Since, Mr. Lavi has submitted the half-yearly return on 5th October, he cannot file the revised return after 3rd January of the next year. The period of 90 days starts from the date of submission of the original return (5th October) and not from the due date of filing the return (25th October).

Question 23

Prasad & Co. wants to file a revised half yearly service tax return. However, the original half yearly return was filed belatedly. You are required to advice Prasad & Co. if it is valid to do so. Your answer must be supported with reasons.

Answer

Yes, Prasad & Co. can file a revised half yearly return. Revised half yearly service tax returns may be filed within 90 days from the date of filing original half yearly return. Thus, even if the original half yearly return is filed belatedly, the same could be revised by filing a revised return.

Question 24

Mr. Abhi, a service provider, wants to furnish consolidated details of lumpsum amounts pertaining to the half year relating to value of taxable service charged, amount realised against the same and service tax payable, in his half-yearly service tax return. Explain whether he can do so.

Answer

A service tax return must indicate inter alia, monthwise:

(i) the value of taxable services charged/billed;
(ii) the value of taxable service realised;
(iii) the amount of service tax payable/paid etc.
Therefore, Mr. Abhi cannot furnish consolidated details relating to value of taxable service charged, amount realised against the same and service tax payable in his half-yearly service tax return.

**Question 25**

*Mr. Amarnath, a registered service provider, did not render any taxable services during the half year October - March. Is he required to file any half yearly service tax return?*

**Answer**

Every assessee has to file a half yearly return. Even if no service is provided during a half year, and no service tax is payable; a NIL return has to be filed. Therefore, Mr. Amarnath is required to file a half yearly service tax return even if he did not render any taxable services during the half year October - March.

**Question 26**

*PS Ltd. has paid service tax of ₹ 9 lakh during the preceding financial year. You are required to examine whether it is required to file service tax return electronically for the half year ended September 30, 20XX.*

**Answer**

Service Tax Rules, 1994 provide that every assessee has to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year. Hence, PS Ltd. has to file service tax return electronically for the half year ended September 30, 20XX.

**Question 27**

*Ashok, a taxable service provider, outsourced a part of work by engaging Suresh, a subcontractor. Service tax is charged and paid by Ashok for the total work. Whether Suresh, the sub-contractor, is liable to charge and pay any service tax?*

**Answer**

Yes, Suresh, the sub-contractor is liable to charge and pay service tax.

The fact that services provided by such sub-contractors are used by the main service provider for completion of his work does not in any way alter the fact of provision of taxable service by the sub-contractor.

In essence, Suresh, the sub-contractor has to be treated like any other service provider and service tax liability has to be determined accordingly.

The fact that Ashok, the main contractor has paid the service tax on the total work, will not absolve Suresh from his exigibility or liability to pay service tax. Suresh has to charge and pay service tax in respect of the taxable services rendered by him to Ashok.
6.15 Indirect Taxes

Question 28
Mohan, a service provider, had received ₹ 2,50,000 in advance from Rakesh. Mohan had deposited service tax on such amount in the relevant half year. He finally rendered services valuing to ₹ 2,20,000 only and refunded balance amount to Rakesh. Mohan want to adjust service tax on ₹ 30,000 refunded by him against his current dues of service tax. Advise him.

Answer
Where an assessee has received any payment against a service to be provided which is not so provided by him either wholly or partially for any reason, the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment or part thereof, so received for the service not provided to the person from whom it was received [Rule 6 of the Service Tax Rules, 1994].

Since, in the given case, service provider Mohan has refunded the payment relatable to the value of services not provided (₹ 30,000) to service receiver Rakesh, he can take the credit of excess service tax paid by him on the said amount and adjust the same against his current service tax dues.

Question 29
Compute service tax liability of Mr. Dominic, a selling agent of lottery for the month of July, 20XX, using the following details.

(i) Lucky Star - a Jackpot organized for Kerala Government where guaranteed prize payout is > 80%
   Aggregate face value of lottery tickets sold ₹ 37,00,000
(ii) Magic Winner - another Jackpot organized for Kerala Government where guaranteed prize payout is < 80%
   Aggregate face value of lottery tickets sold ₹ 55,00,000
(iii) Commission received from the sale of above tickets, was 10% of aggregate face value of lottery tickets sold.

Will there be any difference in the service tax liability of Mr. Dominic if he opts for special provision for payment of service tax as provided under rule 6 of Service Tax Rules, 1994 instead of paying service tax at 15% (including cesses)?

Note: Mr. Dominic is not eligible for SSP exemption and the lottery tickets sold by him are the lottery tickets printed by the Kerala Government.

Answer
Computation of service tax liability of Mr. Dominic for the month of July, 20XX:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission received from sale of lottery tickets</td>
<td>9,20,000</td>
</tr>
</tbody>
</table>
If Mr. Dominic opts for the special provision for payment of service tax as provided under rule 6 of the Service Tax Rules, 1994, service tax liability would as under:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount payable as service tax where the guaranteed lottery prize payout is &gt; 80% [Note 1]</td>
<td>32,800</td>
</tr>
<tr>
<td>Amount payable as service tax where the guaranteed lottery prize payout is &lt; 80% [Note 2]</td>
<td>76,800</td>
</tr>
<tr>
<td>Service tax</td>
<td>1,09,600</td>
</tr>
<tr>
<td>Add: SBC @ 0.5% (₹ 1,09,600 x 0.5/14) (rounded off)</td>
<td>3,914</td>
</tr>
<tr>
<td>KKC @ 0.5% (₹ 1,09,600 x 0.5/14) (rounded off)</td>
<td>3,914</td>
</tr>
<tr>
<td>Service tax payable (including SBC &amp; KKC)</td>
<td>1,17,428</td>
</tr>
</tbody>
</table>

Notes:
1. Where the guaranteed lottery prize payout is > 80%, ₹ 8,200/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets can be paid instead of paying service tax @ 15% (including cesses) viz. ₹ 32,800 [4 × ₹ 8,200].
2. Where the guaranteed lottery prize payout is < 80%, ₹ 12,800/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets can be paid instead of paying service tax @ 15% (including cesses) viz. ₹ 76,800 [6 × ₹ 12,800].

If Mr. Dominic opts for payment of service tax in accordance with special provisions provided under rule 6 of Service Tax Rules, 1994, his service tax liability would be reduced by ₹ 2,572.

Question 30

Mr. X, a Delhi resident, submits a cab request to Speed Cabs for travelling from Delhi to Gurgaon. Speed Cabs is a mobile application owned and managed by Speed Technologies Ltd. located in India. The application facilitates a potential customer to connect with persons providing cab service under the brand name of Speed Cabs. After Mr. X pays the cab charges using his debit card, he gets details of the driver, Mr. Y and the cab’s registration number.
With reference to the Service Tax Rules, 1994, discuss who is liable to pay service tax in this case. Will your answer be different, if Speed Technologies Ltd. is located in New York and does not have a representative in India?

Answer

Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator. In relation to service provided by a person involving an aggregator in any manner, the aggregator of the service is the person liable for paying service tax.

Since in the given case, Speed Technologies Ltd. fulfills all the conditions of being an aggregator, it will be liable to pay service tax under reverse charge.

However, where the aggregator neither has a physical presence nor does it have a representative for any purpose in the taxable territory, it will have to appoint a person in the taxable territory for the purpose of paying service tax and such person will be the person liable for paying service tax. Therefore, Speed Technologies Ltd. will have to appoint a person in India for the purpose of paying service tax if Speed Technologies Ltd. is located in New York and does not have a representative in India.

Question 31

Mr. Paritosh is an air travel agent. He is finding it difficult to charge service tax at the rate specified in section 66B of the Finance Act, 1994 on the value of services provided by him. Can Mr. Paritosh pay service tax at any alternative rate? Explain.

Whether such option of payment of service tax at alternative rates is available in respect of any other service? If yes, mention such service(s).

Answer

Person liable for paying the service tax in relation to the services of booking of tickets for travel by air provided by an air travel agent, has an option to pay following amounts instead of paying service tax at the rate specified in section 66B of the Finance Act, 1994:-

<table>
<thead>
<tr>
<th>In the case of</th>
<th>Option to pay an amount calculated at the rate of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic bookings of passage for travel by air</td>
<td>0.7% of the basic fare</td>
</tr>
<tr>
<td>International bookings of passage for travel by air</td>
<td>1.4% of the basic fare</td>
</tr>
</tbody>
</table>

Here, basic fare means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

Therefore, Mr. Paritosh can pay service tax at the above-mentioned alternative rates instead of paying service tax at the rate specified in section 66B of the Finance Act, 1994. On the service tax so calculated (as given in the above table), Swachh Bharat Cess will be levied by
multiplying the service tax so calculated by (0.5/14). Similarly Krishi Kalyan Cess will also be
levied by multiplying the service tax so calculated by (0.5/14).

However, he should keep in mind that if he exercises such an option, the same will apply
uniformly in respect of all the bookings of passage for travel by air made by him and cannot
be changed during a financial year under any circumstances.

Yes, the option of payment of service tax at alternative rates is available in respect of three
other services namely, life insurance service, purchase or sale of foreign currency including
money changing and promotion, marketing or organising/assisting in organising lottery.

**Question 32**

*Fitness Ltd.* is engaged in providing taxable services for the half year ended on
30th September, 2016. The company filed its half yearly service tax return on:

Case I: 9th November, 2016
Case II: 23rd November, 2016
Case III: 25th January, 2017

Determine the amount of late fee payable, if any, by Fitness Ltd. in each of the above
independent cases.

**Answer**

*Computation of the amount of late fee payable by Fitness Ltd.*

<table>
<thead>
<tr>
<th>Case</th>
<th>Particulars</th>
<th>Late fee as per rule 7C of Service Tax Rules, 1994</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Due date for filing half yearly return – 25.10.2016</td>
<td></td>
</tr>
<tr>
<td>I.</td>
<td>If period of delay is 15 days from the date prescribed for submission of the return</td>
<td>₹ 500</td>
</tr>
<tr>
<td></td>
<td>In the present case, return has been filed with a delay of 15 (6+9) days from the date prescribed for submission of the return</td>
<td>₹500</td>
</tr>
<tr>
<td>II.</td>
<td>If period of delay is beyond 15 days but not later than 30 days from the date prescribed for submission of the return</td>
<td>₹ 1,000</td>
</tr>
<tr>
<td></td>
<td>In the present case, return has been filed with a delay of 29 (i.e. 6+23) days from the date prescribed for submission of the return</td>
<td>₹ 1,000</td>
</tr>
<tr>
<td>III.</td>
<td>Beyond 30 days from the date prescribed for submission of the return</td>
<td>An amount of ₹ 1,000 plus ₹ 100 for every day from the 31st day till the date of furnishing the said return. However, total late fee for delayed submission of return shall not exceed ₹ 1,000.</td>
</tr>
</tbody>
</table>
In the present case, return has been filed with a delay of 92 (i.e. 6+30+31+25) days from the date prescribed for submission of the return.

<table>
<thead>
<tr>
<th>₹ 20,000.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower of the following two amounts:</td>
</tr>
<tr>
<td>(i) ₹ 1,000+ ₹ 6,200 (₹ 100 × 62 days) = ₹ 7,200</td>
</tr>
<tr>
<td>(ii) ₹ 20,000</td>
</tr>
<tr>
<td>Thus, late fee leviable is ₹ 7,200</td>
</tr>
</tbody>
</table>

**Exercise**

1. Explain the basic provisions relating to service tax registration.
2. Write a brief note on centralised registration.
3. Enlist the contents of an invoice issued under service tax provisions. Also, mention the exceptions to the general rule, if any.
4. Explain what is reverse charge mechanism under service tax.
5. Explain whether a service provider is allowed to pay service tax on a provisional basis.
6. Whether life insurer carrying on life insurance business has option to calculate service tax at different rate?
7. How can an assessee adjust the excess payment of service tax against his liability of service tax for subsequent periods? What is the basic condition for the same?
8. Explain optional composition scheme under service tax for distributor or selling agents of lotteries.
9. Write a short note on Service Tax Code Number and the objective sought to be achieved by the same.
10. What is EASIEST scheme and state the benefits in the context of service tax?
11. State the service tax provisions regarding adjustment of service tax paid when service was not provided either wholly or partly.
12. Briefly explain the important points to be kept in mind while paying service tax.
13. Briefly explain the provisions relating to advance payment of service tax.
14. Explain the treatment for excess amount of service tax collected from the recipient under service tax.
15. What are the consequences of non-payment or delayed payment of service tax?
16. When should the return be filed, if the due date happens to be a public holiday?
17. ‘X’, an individual, has not provided any services in the half year April to September. Should he file any return for this period? Give your opinion.