

Note: All questions are compulsory.

Question 1(6 Marks)

Computation of value of service portion in the execution of works contract (1 ½ mark)

Particulars	Amount (₹)
Gross amount charged	2,00,000
Less: Actual value of material transferred (Refer note below)	<u>1,60,000</u>
Value of service portion in the execution of works contract	<u>40,000</u>

Note - Since VAT has been paid on the actual value of property in goods transferred in the execution of the works contract, such value adopted for the purposes of payment of VAT has been taken as the value of property in goods transferred in the execution of the said works contract [Clause (c) of Explanation to rule 2A(i) of the Service Tax (Determination of Value) Rules, 2006].

Computation of service tax liability (4 ½ marks)

Particulars	Service tax @ 14% (₹)	SBC @ 0.5% (₹)	KKC @ 0.5% (₹)
Service tax on ₹ 40,000	5,600	200	200
Less: CENVAT credit on inputs (Note-1)	-	-	-
CENVAT credit on input services (Note-2)	2,800	-	100
CENVAT credit on capital goods (50%) (Note-3)	<u>1,250</u>	-	-
Service tax liability	<u>1,550</u>	<u>200</u>	<u>100</u>
Total service tax liability including cesses = ₹ 1,850			

Notes:

1. CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, is not available [Explanation 2 to rule 2A of the of the Service Tax (Determination of Value) Rules, 2006].
2. CENVAT credit of SBC paid on input services is not allowed.
3. Upto 50% of the CENVAT credit of the excise duty paid on capital goods used for the execution of the service portion of the works contract is available in the year of purchase [Rule 4(2)(a) of CENVAT Credit Rules, 2004]

Question 2(5 Marks)

10. Computation of refund of service tax (including cesses) available under

Notification No. 12/2013 ST dated 01.07.2013

Particulars	Service tax (` in lakh)	SBC (` in lakh)	KKC (` in lakh)
Service tax, SBC and KKC paid on services exclusively used for authorized SEZ operations [Note 1] (1 mark)	14.00 [(` 15 lakh/ 15) x 14]	0.50 [(` 15 lakh/15)x0.5]	0.50 [(` 15 lakh /15)x0.5]
Refund of service tax, SBC & KKC paid on services used for authorized SEZ operations (A) (1 mark)	14.00	0.50	0.50
Refund of service tax paid, SBC & KKC on services exclusively used for DTA operations [Note 2] (1 mark)	Nil	Nil	Nil
Service tax, SBC and KKC paid on services commonly used for authorized SEZ operations and DTA operations (1 mark)	42.00 [(` 45 lakh/ 15) x 14]	1.50 [(` 45 lakh/ 15) x 0.5]	1.50 [(` 45 lakh/ 15) x 0.5]
Refund of service tax, SBC & KKC paid on services commonly used for authorized SEZ operations & DTA operations (1 mark) (B)	16.80 $42 \times \frac{800}{200}$	0.6 (16.8 x $\frac{0.5}{14}$)	0.6 (16.8 x $\frac{0.5}{14}$)
Net refund = (A) + (B)]	30.80	1.10	1.10
Total refund = ` 33 lakh			

Notes:

As per Notification No. 12/2013 ST dated 01.07.2013:

- SEZ unit is entitled to refund of the whole amount of service tax including SBC & KKC paid on the services on which *ab-initio* exemption is admissible but not claimed (services received by SEZ and used exclusively for the authorized operations are entitled for *ab initio* exemption).
- Services received by an SEZ unit that are used for the authorized operations are only entitled to exemption under said notification. Thus, services exclusively used for DTA operations are not entitled to the said exemption.
- For services commonly used for authorized SEZ operations and DTA operations, service tax distributed to SEZ unit in terms of rule 7(d) of CENVAT Credit Rules, 2004 is entitled for refund. As per rule 7(d), service tax is distributed *pro rata* on the basis of that turnover of SEZ unit during the relevant period (in this case, preceding financial year) to the total turnover of SEZ and DTA units during the said relevant period.

Refund of SBC & KKC is determined by multiplying total service tax distributed to SEZ unit as above by effective rate of SBC (0.5) and KKC (0.5) respectively and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994 (14).

Question 3(5 Marks)

Due date for payment of service tax for the month of June, 2016 06.07.2016

Date when service tax was actually paid 06.12.2016

Section 75 of Finance Act, 1994 read with *Notification No. 13/2016 ST dated 01.03.2016* provides for charging simple interest where any amount has been collected as service tax but not paid to the credit of the Central Government on or before the date on which such payment becomes due.

The interest is payable @ 24% p.a. for the period by which such crediting of tax or any part thereof is delayed. However, in all other cases, 15% simple interest p.a. is payable.

Further, such rate of interest shall be reduced by 3% per annum in case of a service provider whose turnover does not exceed ` 60 lakh during any of the financial years covered by the notice or during the last preceding financial year. **(2 marks)**

Since in the given case, Manohar Housekeeping Services Ltd. has collected service tax but failed to deposit the same on/before the due date with Central Government and its turnover was ` 58.50 lakh in the preceding financial year, interest under section 75 will be payable @ 21% as follows: **(2 marks)**

Period	Delay	Interest (`)
07.07.2016 to 06.12.2016	5 months	$\text{` } 5,00,000 \times 21\% \times 5/12$ $= 43,750$

However, if the value of taxable services provided by Manohar Housekeeping Services Ltd. in the preceding financial year is ` 91.90 lakh (i.e. more than ` 60 lakh), interest payable will be computed as follows: **(1 mark)**

Period	Rate of interest	Delay	Interest (`)
07.07.2016 to 06.12.2016	24%	5 months	$5,00,000 \times 24\% \times 5/12$ $= 50,000$

Question 4(5 Marks)

(i) As per section 89(1)(b) of Finance Act, 1994, both availment and utilization of credit of excise duty without actual receipt of excisable goods constitutes an offence for launching prosecution.

Since in the given case, Mr. Aarav Malhotra has only availed CENVAT credit and not utilised the same, prosecution provisions will not be applicable to him. **(1 Mark)**

(ii) As per section 89(1)(i) of Finance Act, 1994, whoever wilfully evades payment of service tax would be punishable with imprisonment for a period of 6 months to 3 years if the amount involved in the offence exceeds ` 2 crore.

Since in the given case, Mr. Raghav Bisht has wilfully evaded payment of service tax of ` 14 crore, which is more than the prescribed limit (` 2 crore), he will be liable for imprisonment for a period of 6 months to 3 years. **(2 Marks)**

(iii) As per section 89(1)(ii) of Finance Act, 1994, failure to pay the amount collected as service tax to the credit of Central Government beyond a period of six months from the date on which such payment becomes due, constitutes an offence punishable with imprisonment for a period of 6 months to 7 years, if the amount exceeds ` 2 crore.

In the given case, the amount collected but not paid is ` 5 crore and the same has not been paid beyond the period of six months. Therefore, Mr. Dev Khanna will be liable for imprisonment for a period of 6 months to 7 years.

If Mr. Raghav Bisht and Mr. Dev Khanna are convicted for subsequent offences, then as per section 89(2) of the Finance Act, 1994, Mr. Raghav Bisht would be liable for imprisonment for a period which may extend to 3 years whereas Mr. Dev Khanna would be liable for imprisonment for a period which may extend to 7 years. **(2 Marks)**

Question 5(5 Marks) (2 ½ Marks each)**(i) The statement is not valid.**

As per sub-rule (1) of rule 7B of the Service Tax Rules, 1994, a half yearly service tax return (ST-3) can be revised within a period of 90 days from the date of submission of the return under rule 7. Further, as per sub-rule (2) of rule 7B, an annual return can also be revised within a period of one month from the date of submission of the said annual return. Therefore, as far as revision of returns under service tax is concerned, the given statement is correct. **(1 mark)**

However, the statement is not correct with regard to revision of central excise returns. With effect from 17.08.2016, facility of revision of returns has been extended to central excise returns also. A new sub-rule (8) has been inserted in rule 12 of the Central Excise Rules, 2002 to provide that a monthly return (ER-1) or quarterly return (ER -3) filed on/before the respective due date can be revised by the end of the calendar month in which the original return is filed. Similarly, an annual return filed on/before the due date can also be revised within a period of 1 month from the date of submission of the said Annual Return. Furthermore, a new sub-rule (7) has been inserted in rule 17 to provide that a monthly return (ER-2) filed by a 100% EOU on/before the due date can also be revised by the end of the calendar month in which the original return is filed. **(1 mark)**

In view of the above-mentioned provisions, the statement is not valid as facility of revision of returns exist under both central excise and service tax laws. **(1/2 mark)**

- (ii)** Prior to 01.04.2016, rule 6(1) of the Service Tax Rules, 1994 required a company including a One Person Company (OPC) and a Hindu Undivided Family (HUF) to pay service tax on monthly basis. However, an individual or proprietary firm or partnership firm could pay service tax on quarterly basis. Therefore, as far as payment of service tax by companies is concerned, the statement is correct. **(1 Mark)**

However, with effect from 01.04.2016, proviso to rule 6(1) has been amended to lay down that a one person company whose aggregate value of taxable services provided from one or more premises is ` 50 lakh or less in the previous financial year or an HUF can also pay service tax on quarterly basis. **(1 mark)**

Therefore, the given statement is not absolutely correct in as much as every OPC cannot pay service tax on quarterly basis; only that OPC is eligible for quarterly payment of service tax whose aggregate value of taxable services provided from one or more premises is ` 50 lakh or less in the previous financial year. **(1/2 mark)**

Question 6(8 Marks)**Computation of service tax liability of Sudarshan Ltd. for the month of June, 20XX**

Particulars	(`)
Service tax payable on taxable services provided(2 mark)	
Taxable services provided under its own brand name [Note 2]	9,00,000
Declared services [Note 3]	2,80,000
Services wholly exempt under <i>Notification No. 25/2012 dated 20.06.2012</i>	-
Value of taxable services	11,80,000
Less: Exemption for small service providers [Note 1] (1 mark)	10,00,000
Taxable services liable to service tax	1,80,000
Add: Services provided under brand name of other person [Note 2] (1 mark)	3,60,000
Total taxable services	5,40,000
Service tax payable @ 14% [$5,40,000 \times 14\%$]	75,600

Add: SBC [$\text{₹ } 5,40,000 \times 0.5\%$]	2,700
KKC [$\text{₹ } 5,40,000 \times 0.5\%$]	<u>2,700</u>
Total Service tax payable on taxable services provided(1 mark)	81,000
Service tax payable on taxable services received under reverse charge:	
Freight paid to the goods transport agency(1 mark)	2,00,000
Less: Abatement @ 70% [$\text{₹ } 2,00,000 \times 70\%$](1 mark)	<u>1,40,000</u>
Taxable services of goods transport agency [Note 4]	<u>60,000</u>
Service tax payable @ 14% [$\text{₹ } 60,000 \times 14\%$]	8,400
Add: SBC [$\text{₹ } 60,000 \times 0.5\%$]	300
KKC [$\text{₹ } 60,000 \times 0.5\%$]	<u>300</u>
Total service tax (including cesses) payable on taxable services received(1 mark)	<u>9,000</u>

Notes:

1. Taxable services of aggregate value not exceeding $\text{₹ } 10$ lakh in any financial year are exempted from service tax if the aggregate value of taxable services rendered does not exceed $\text{₹ } 10$ lakh in the preceding financial year. Since Sudarshan Ltd. has started rendering services in the given financial year, it will be eligible for the exemption for small service providers as the aggregate value of taxable services rendered in the preceding financial year is 'Nil' (less than $\text{₹ } 10$ lakh) [Notification No. 33/2012 ST dated 20.06.2012].
2. Exemption for small service providers is not available in respect of taxable services provided under a brand name of another person. However, services provided under own brand name are eligible for such exemption [Notification No. 33/2012 ST dated 20.06.2012].
3. Service includes declared services [Section 65B(44) of the Finance Act, 1994]. Service tax is charged on the value of services determined as per section 67 of the Finance Act, 1994 read with Service Tax (Determination of Value) Rules, 2006. Therefore, value of declared services determined as per Valuation Rules will only be charged to service tax.
4. Abatement of 70% of the amount charged by the goods transport agency (GTA) is available [Notification No. 26/2012 S.T dated 20.06.2012].

Entire service tax is payable by service receiver since the person liable to pay freight is a company (Sudarshan Ltd.) [Notification No. 30/2012 ST dated 20.06.2012]. Further, small service providers' exemption is not available in respect of such services. [Notification No. 33/2012 ST dated 20.06.2012].

Question 7(6 Marks)

In the given case, since the invoice is issued within the prescribed period of 30 days from the date of completion of provision of service, the point of taxation, as per rule 3 of PoTR shall be:

- a. Date of invoice (i.e. 20.10.20XX) or
- b. Date of receipt of payment (i.e. 15.10.20XX) [Refer note below]
whichever is earlier, i.e. 15.10.20XX **(3 Marks)**

Note: As per rule 2A of the PoTR, date of payment is:-

- (a) date on which the payment is entered in the books of account (i.e. 15.10.20XX) or
- (b) date on which the payment is credited to the bank account of the person liable to pay tax (i.e. 25.10.20XX)

whichever is earlier, i.e. 15.10.20XX. **(3 Marks)**

Question 8(5 Marks)

- a. Central Levies to be subsumed **(2 ½ marks)**
 - 1. Central Excise duty & Additional Excise duty
 - 2. Service Tax
 - 3. Excise duty under Medicinal & toilet preparation Act
 - 4. CVD & Special CVD
 - 5. Central Sales Tax
 - 6. Surcharges and cesses in so far as they relate to supply of goods and services
- b. State Levies to be subsumed **(2 ½ marks)**
 - 1. State surcharges and cesses in so far as they relate to supply of goods and services
 - 2. Entertainment Tax (except those levied by local bodies)
 - 3. Tax on lottery, betting and gambling
 - 4. Entry tax (all forms) & purchase tax
 - 5. VAT/Sales Tax
 - 6. Luxury Tax
 - 7. Taxes on advertisements

Question 9(5 Marks)

Taxable event- Supply

- a. The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied, i.e. the taxable event. The existing framework of taxable event in various statutes is prone to catena of interpretations resulting in litigation since decades
- b. Broadly, the controversies relates to issues like whether a particular process amounts to manufacture or not, whether the sale is pre-determined sale, whether a particular transaction is a sale of goods or rendering of services etc. The GST laws seek to resolve these issues by laying down one comprehensive taxable event i.e: "Supply".
- c. GST Law, by levying tax on the 'supply' of goods and/or services, will depart from the historically understood concepts of 'taxable event' under the State VAT Laws, Excise Laws and Service Tax Laws i.e. sale, manufacture and service respectively.
- d. In the GST regime, the entire value of supply of goods and / or services will be taxed in an integrated manner, unlike the existing indirect taxes, which are charged independently either on the manufacture or sale of goods, or on the provisions of services.
