



IPCC – November 2017

INDIRECT TAXATION

Test Code – 8065

Branch (MULTIPLE) (Date : 23.07.2017)

(50 Marks)

Note: All questions are compulsory.

Question 1(6marks)

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:- **(3 Marks)**

For an amount	Service tax shall be calculated at the rate of
Upto ` 1,00,000	0.14 % of the gross amount of currency exchanged or ` 35 whichever is higher
Exceeding ` 1,00,000 and upto ` 10,00,000	` 140 + 0.07 % of the (gross amount of currency exchanged - ` 1,00,000)
Exceeding ` 10,00,000	` 770 + 0.014 % of the (gross amount of currency exchanged - ` 10,00,000) or ` 7,000 whichever is lower

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). **(1 Mark)**

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year. **(1 Mark)**

Therefore, Mr. M, being a money changer, has an option to pay service tax at the aforementioned rates. **(1 Mark)**

Question 2 (4 marks)

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, in the given case, value of taxable service would be as follows: - (RBI reference rate for \$ – Selling rate for \$) × Total units of US \$

$$= ` (62-61) \times 9,000 = ` 9,000$$

(1 ½ mark)

(b) If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money. Hence, in the given case, value of taxable service would be as follows: -

$$1\% \text{ of } ` (61 \times 9,000) = ` 5,490$$

(1 ½ mark)

In case neither of the currencies exchanged is Indian Rupee: (1 mark)

The value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Hence, in the given case, value of taxable service would be 1% of the lower of the following: -

- (a) US dollar converted into Indian rupees = \$ 9,000 × ` 63 = ` 5,67,000
- (b) UK pound converted into Indian rupees = £ 4,500 × ` 101 = ` 4,54,500
- Value of taxable service = 1% of ` 4,54,500 = ` 4,545

Question 3 (6 marks)

Computation of service tax liability of Rishabh Professionals Ltd.

Particulars	₹
Service tax payable on taxable services provided:	
Advance received for the services to be rendered in October, 20XX (Note-1)(1 mark)	9,00,000
Value of free services rendered to the friends (Note-2) (1 mark)	Nil
Other services rendered during the month(1/2 mark)	<u>8,00,000</u>
Total	17,00,000
Less: Exemption available to small service providers (Note-3) (1 mark)	<u>10,00,000</u>
Value of taxable services including service tax and cesses	7,00,000
Service tax payable = ` [7,00,000 × $\frac{15}{115}$] (A) (including SBC and KKC)(rounded off) (1/2 mark)	91,304
Service tax payable under reverse charge on taxable services received:	
Services received from its associated enterprise located in UK (Note-4) (1 mark)	5,00,000
Service tax payable on services received = (` 5,00,000 × 15/115) (including SBC and KKC) (B) (rounded off)	65,217
Total Service tax liability (including SBC & KKC) (A) + (B) (1 mark)	1,56,521

Notes:-

1. Advance received in July, 20XX is taxable in the month of receipt of advance [Rule 3 of Point of Taxation Rules, 2011]
2. Service is an activity carried out, *inter alia*, for a consideration. Therefore, since no consideration is involved in case of free services, service tax is not payable thereon.
3. Since, services provided by Rishabh Professional Ltd. became taxable on July 01, 20XX, aggregate value of taxable services rendered in preceding financial year is Nil. Hence, Rishabh Professional Ltd. is eligible for small service provider's exemption.
4. In case where the taxable services are provided by any person which is located in a non taxable territory and received by any person located in the taxable territory, entire service tax is payable by service receiver. Small service providers' exemption is not available in respect of services taxed under reverse charge mechanism.

Further, in case of "associated enterprises", where the person providing the service is located outside India, point of taxation is date of debit in the books of account of the person

receiving the service or date of making the payment whichever is earlier. [Rule 7 of Point of Taxation Rules, 2011]

Question 4(6 marks)

- (a) In case of taxable service provided by a director of a company to said company, service recipient is liable to pay service tax under reverse charge mechanism.

Further, rule 7 of Point of Taxation Rules, 2011, *inter alia*, provides that in respect of persons liable to pay service tax under reverse charge mechanism, the point of taxation shall be the date on which payment is made subject to the condition that payment is made within a period of three months of the date of invoice. **(1 Mark)**

However, if payment is not made within a period of 3 months of date of invoice, point of taxation will be first day that occurs immediately after expiry of said 3 months. **(1 Mark)**

Since, in the present case, payment is made in August end, which is beyond 3 months of the date of invoice (invoice is issued in April), the point of taxation would be the first day that occurs immediately after expiry of said 3 months. **(1 Mark)**

- (b) Point of taxation in case of import of service by “associated enterprises” where the person providing the service is located outside India is-

(i) date of debit in the books of account of the person receiving the service

OR

(ii) Date of making the payment

whichever is earlier**(2 Marks)**

Here, date of debit in XYZ Ltd.’s books of accounts is 07.02.2016 and date of payment to Dubai firm is 25.02.2016. Therefore, point of taxation is 07.02.2016. **(1 Mark)**

Question 5 (6 marks)

Computation of Net VAT payable and input tax credit

Particulars	`
Output VAT (2 ½ Marks)	
Purchases of raw material [excluding VAT of ` 95,000 ($8,55,000 \times 12.5/112.5$)]	7,60,000
Manufacturing and other expenses	<u>1,00,000</u>
Cost of production	<u>8,60,000</u>
Cost of goods sold [80% of ` 8,60,000]	6,88,000
Add: Profit @ 25% on the cost of goods sold	<u>1,72,000</u>
Sale price	<u>8,60,000</u>
Output VAT payable @ 12.5% (A)	1,07,500
Input VAT(2 ½ Marks)	
Input tax credit on raw materials used in manufacture of finished goods that are sold [$95,000 \times 80\%$]	76,000
Input tax credit on raw materials used in manufacture of finished goods that are stock transferred to Manipur [$7,60,000 \times 20\% \times (12.5 - 2)\%$] (In case of inter-state stock transfer of finished goods, input tax paid	<u>15,960</u>

on inputs used in manufacture of such finished goods in excess of 2% is available as input tax credit.)	
Total input tax credit (B)	91,960
Net VAT payable (A) – (B)(1 Mark)	15,540

Question 6 (4 marks)

No, Krishna’s contention is not correct as non-payment of service tax is not permissible under service tax law on the plea that value of a taxable service cannot be ascertained.

Rule 3 of Service Tax (Determination of Value) Rules, 2006 provides that where the value of a taxable service is not ascertainable, the same shall be determined by the service provider in the following manner:-

(a) The value of such taxable service would be equivalent to the gross amount charged by the service provider to provide similar service to any other person subject to fulfillment of the conditions below:

1. Such service is in the ordinary course of trade.
2. The gross amount charged is the sole consideration.

(b) Where the value cannot be determined in accordance with clause (a), the service provider will determine the equivalent money value of such consideration. However, such value should, in no case be less than the cost of provision of such taxable service. **(2 marks)**

Therefore, Krishna should also value the service provided by him in the manner provided by rule 3 of Service Tax (Determination of Value) Rules, 2006 and pay service tax. Accordingly, he should value the service provided by him on the basis of similar services and if that is not possible, he should value the service on the basis of equivalent money value of consideration and pay service tax on the same. **(2 marks)**

Question 7 (6 marks)(1 mark for each)

As per section 66D(g) of the Finance Act, 1994, selling of space for advertisements in print media is included in the negative list of services. In other words, advertisement in all media except print media is liable to service tax. Therefore, sale of space for advertisements on internet websites, sale of time for advertisement to be broadcast on TV Channel and advertising on film screen in theatres are liable to service tax.

Further, definition of print media specifically excludes business directories. Therefore, advertising in business directories attracts service tax.

Services related to preparation of advertisement are liable to service tax as they are not included in the negative list.

Computation of service tax payable

Services	Value of service (₹)	Service tax @ 15% (including SBC & KKC) (₹)
Sale of space for advertisement in a leading newspaper	2,15,000	Nil
Services related to preparation of advertisement	60,000	9,000
Sale of space for advertisements on internet websites	40,000	6,000
Sale of time for advertisement to be	1,50,000	22,500

broadcast on TV Channel		
Advertising in business directories	30,000	4,500
Advertising on film screen in theatres	1,00,000	15,000

Question 8 (6 marks)

Mega exemption *Notification No. 25/2012 ST dated 20.06.2012* exempts services provided 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. **(3 Marks)**

- (a) Service tax is not payable on educational services rendered by the play school (providing pre-school education) in the given case as the Educational Trust - Gyan Mandal - falls under the definition of 'educational institution' and services provided by it are exempt from service tax. **(1 mark)**
- (b) Service tax is not payable in this case as Shining Stars Public School providing educational services upto higher secondary school is covered within the definition of educational institution and services provided by it are exempt from service tax. **(1 mark)**
- (c) Since coaching given by private coaching institutes/centers is not part of a curriculum for obtaining recognized qualification, the same is not covered within the definition of educational institution. Therefore, service tax is payable by coaching center providing coaching for MBA entrance examination. **(1 mark)**

Question 9 (6 marks)

Computation of interest on delayed payment of service tax

Name of the service provider	ABC Ltd.(3 marks)	Gagan(3 marks)
Service tax liability	₹ 1,00,000	₹ 2,00,000
Delay in payment of service tax	10 days	20 days
Value of taxable services in previous financial year	₹ 35,00,000	₹ 70,00,000
Rate of interest	12% per annum	15% per annum
Interest (rounded off)	$[\text{₹ } 1,00,000 \times (12/100) \times (10/365)]$ = ₹ 329 (rounded off)	$[\text{₹ } 2,00,000 \times (15/100) \times (20/365)]$ = ₹ 1,644 (rounded off)

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.

Further, the applicable rate gets reduced by 3% for service providers whose turnover of services does not exceed ₹ 60 lakh in the preceding financial year.
