

6

Service Tax Procedures

Question 1

Nitya provided interior decorator's services in the half year ended on 30th September, 2014. The due date of filing the return for the said half year was 25th October, 2014. Compute the amount payable by her in terms of rule 7C of the Service Tax Rules, 1994, if any, in each of the following independent cases:

	<i>Date of filing of service tax return</i>
<i>Case I</i>	<i>01.11.2014</i>
<i>Case II</i>	<i>22.11.2014</i>
<i>Case III</i>	<i>28.11.2014</i>
<i>Case IV</i>	<i>04.12.2014</i>
<i>Case V</i>	<i>14.12.2014</i>
<i>Case VI</i>	<i>03.05.2015</i>
<i>Case VII</i>	<i>02.06.2015</i>
<i>Case VIII</i>	<i>22.06.2015</i>

Answer

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

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

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

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

Question 2

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

- Suhani Ltd. starts providing taxable services with effect from 01.09.2014. Suhani Ltd. is an input service distributor with its branches located in many States of India.*
- Mr. A started providing non-taxable services under an unregistered brand name of another person on 01.01.2014. With effect from 01.04.2014, service tax was levied on the services provided by him owing to an amendment in law. His aggregate value of taxable services exceeded ₹ 9,00,000 on 31.03.2015.*

6.3 Service Tax

Answer

- (i) Yes, as per rule 3(1) of the Service Tax (Registration of Special Category of Persons) Rules, 2005, an input service distributor is liable to apply for registration within a period of 30 days of the commencement of business. Thus, in the given case, Suhani Ltd. should apply for registration on or before 30.09.2014.
- (ii) According to *Notification No. 33/2012 dated 20.06.2012*, the threshold exemption limit of ₹10 lakh is not available to taxable services provided by a person under a brand name or trade name, whether registered or not, of another person.

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

- (i) within 30 days from the date on which service tax is levied (i.e. 01.04.2014)

or

- (ii) within 30 days from the date of commencement of business (i.e. 01.01.2014).

whichever is later.

Thus, Mr. A should apply for registration on or before 30.04.2014.

Question 3

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

Answer

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

Notification No. 30/2012-Service Tax dated 20.06.2012 thereby specifies that in respect of services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory, service tax is required to be paid by person receiving the service.

Therefore, in the present case, service tax is required to be paid by Mr. Yogi, being a person receiving the service and located in taxable territory. Consequently, Mr. Yogi is liable to get registered under service tax.

Question 4

ABC Services Ltd. was liable to make e-payment of service tax of ₹ 6,00,000 for the month of October, 2014. However, it deposited it on 15.05.2015. Compute the amount of interest

payable by ABC Services Ltd. under section 75 of the Finance Act, 1994. The value of taxable services provided by it during the preceding financial year was ₹ 55.40 lakh.

What would be the amount of interest payable by ABC Services Ltd. if the value of services provided by it during the last financial year was ₹ 80.90 lakh?

Answer

Due date for payment of service tax for the month of October, 2014 06.11.2014

Date when service tax was actually paid 15.05.2015

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.

With effect from 01.10.2014, *Notification No. 12/2014 ST dated 11.07.2014* prescribes following rates of interest for delayed payment of service tax:

Extent of delay	Simple interest rate per annum
Up to 6 months	18%
More than 6 months & upto 1 year	18% for first 6 months, and 24% for the period of delay beyond 6 months
More than 1 year	18% for first 6 months, 24% for second 6 months, and 30% for the period of delay beyond 1 year

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 years covered by the notice or during the preceding financial year.

Hence, in the given case, the concessional rates of interest will be available to ABC Services Ltd. as its turnover was ₹ 55.40 lakh in the preceding financial year.

Period	Rate of interest	Delay	Interest (₹)
07.11.2014 to 06.05.2015	15%	6 months	$6,00,000 \times 15\% \times 6/12$ =45,000
07.05.2015 to 15.05.2015	21%	9 days	$6,00,000 \times 21\% \times 9/365$ =3,106 (rounded off)
Total interest (rounded off)			48,106

If the value of taxable services provided by ABC Services Ltd. in the last financial year is ₹ 80.90 lakh (i.e. more than ₹60 lakh), interest payable will be computed as follows:-

Period	Rate of interest	Delay	Interest (₹)
07.11.2014 to 06.05.2015	18%	6 months	$6,00,000 \times 18\% \times 6/12=54,000$

6.5 Service Tax

07.05.2015 to 15.05.2015	24%	9 days	$6,00,000 \times 24\% \times 9/365$ =3,551 (rounded off)
Total interest (rounded off)			57,551

Question 5

Under reverse charge mechanism, which services have been notified, where service tax is jointly payable by both the service provider and the service receiver?

Answer

The following services have been notified vide *Notification No. 30/2012 ST dated 20.06.2012* under reverse charge mechanism where service tax is jointly payable by both, service provider and service receiver:-

- (i) services provided or agreed to be 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
- (ii) services provided or agreed to be provided by way of supply of manpower for any purpose or security services
- (iii) services provided or agreed to be provided in service portion in execution of works contract.

Service tax will be jointly payable only if the above services are provided by any individual, HUF or partnership firm including association of persons, located in the taxable territory to a body corporate, located in the taxable territory.

Exercise

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