

Amendments in Service Tax

RELEVANT DATE FOR DETERMINATION OF RATE OF SERVICE TAX & TAXABLE EVENT OR POINT OF TAXATION OF TAXABLE SERVICES UNDER POINT OF TAXATION RULES, 2011:

Date for determination of rate [Rule 5B of Service Tax Rules, 1994, w.e.f. 1-4-2011]: The rate of tax in case of services provided, or to be provided, shall be the rate prevailing at the time when the **services are deemed to have been provided** under the rules made in this regard.

DETERMINATION OF TAXABLE EVENT, OR, POINT OF TAXATION OF TAXABLE SERVICES [POINT OF TAXATION RULES, 2011, W.E.F. 1-4-2011]:

(1) **Applicability:** These Rules have become effective from 1-4-2011. They shall not apply where the provision of service is completed; or where invoices are issued prior to 1-4-2011.

Option to pay tax as per old law on receipt basis upto 30-6-2011: Services for which provisions is completed on or before 30-6-2011 or where the invoices are issued upto the 30-6-2011, the point of taxation shall, at the option of the taxpayer, be the date on which the payment is received or made.

(2) **Point of Taxation :** "Point of taxation" means the point in time when a service shall be deemed to have been provided.

(3) **Determination of point of taxation:** Point of taxation i.e. deemed date of provision of service will be-

(i) the date of issue of invoice, if such invoice is issued within 14 days of completion of service,

(ii) the date of completion of service, if such invoice is not issued within 14 days as aforesaid.

(iii) the date on which the payment is received by the service provider.

Whichever is the earliest.

[*Time-limit for issue of invoice:* Every person providing taxable service shall, within 14 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, issue an invoice/bill/challan in respect of such taxable service.]

- (4) **Determination of point of taxation in case of specified services or persons**
[Rule 7]: The point of taxation in respect of the following cases shall be as given in the Table below:

In respect of -	Point of Taxation
(A) Export of Services	Point of taxation shall be the date on which payment is received. <i>However</i> , where payment is not received within period specified by RBI , the point of taxation shall be determined, as if this rule does not exist.
(B) If service receivers are liable to pay tax u/s 68(2);	Point of taxation shall be the date on which payment is made. <i>However</i> , where payment is not made within 6 months of date of invoice , the point of taxation shall be determined, as if this rule does not exist.
(C) Individuals or proprietary firms or partnership firms providing Chartered Accountant or Legal Consultant Service, etc.	Point of Taxation shall be date on which payment is received.
(D) If, in case of associated enterprises, service provider is located outside India	Point of taxation shall be the date of credit in the books of account of the person receiving the service or date of making the payment, whichever is earlier.

- (5) **Payment of tax in cases of new services:** Where a service is taxed for the first time, then, -
- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
 - (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of Service Tax Rules, 1994.
- (6) **Other provisions:** The rules also make provision in respect of continuous supply of services and also in case of change in effective rate of tax.

Illustration 1- Determination of Point of Taxation: Determine point(s) of taxation in the following cases -

No.	Date of completion of service	Date of invoice	Date on which payment recd.
1	April 10, 2011	April 20, 2011	April 30, 2011

2	April 10, 2011	April 26, 2011	April 30, 2011
3	April 10, 2011	April 20, 2011	April 15, 2011
4	April 10, 2011	April 26, 2011	April 5, 2011 (part) and April 25, 2011 (remaining)

Solution: The point(s) of taxation in the aforesaid cases is determined below –

No.	Point of Taxation	Remarks
1	April 20, 2011	Invoice issued in 14 days and before receipt of payment
2	April 10, 2011	Invoice not issued within 14 days and payment received after completion of service
3	April 15, 2011	Invoice issued in 14 days but payment received before invoice
4	April 5, 2011 and April 10, 2011 for respective amounts	Invoice not issued in 14 days. Part payment before completion, remaining later

VALUATION OF TAXABLE SERVICES [Section 67]:

Section 67 contains comprehensive provisions for valuation of taxable services for the purpose of levy of service tax. Accordingly, where service tax is chargeable on any taxable service with reference to its value, then, such value shall be computed as follows –

	Case -	Value shall be -
(a)	Where the provision of service is for a consideration in money	The gross amount charged by the service provider for such service provided or to be provided by him
(b)	Where the provision of service is for a consideration not wholly or partly consisting of money	Such amount in money, with the addition of service tax charged, as in equivalent to the consideration
(c)	Where the provision of service is for a consideration which is not ascertainable	Amount as may be determined in the manner prescribed by the Service Tax (Determination of Value) Rules, 2006.

Where the gross amount charged is inclusive of service tax : Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be calculated as follows –

$$\text{Value of taxable service} = \frac{\text{Gross amount charged (inclusive of service tax)} \times 100}{(100 + \text{Rate of service tax}) \text{ i.e. } 110.3}$$

$$\text{service tax payable} = \frac{\text{Gross amount charged (inclusive of service tax)} \times 10.3}{(100 + \text{Rate of service tax}) \text{ i.e. } 110.3}$$

Scope of gross amount charged : The gross amount charged for the taxable service shall include any amount received towards the taxable service –

- ▶ before,
- ▶ during or
- ▶ after,

Provision of such service.

Free Services, not taxable: The services provided free of cost i.e. without any consideration are not chargeable to service tax, as there is no valuation mechanism for valuing free services.

Explanations –

- (a) 'Consideration' includes any amount payable for taxable services provided or to be provided;
- (b) 'Money' includes –
 - ▶ any currency, cheque, promissory note, letter of credit, draft, pay order, travelers cheque, money order, postal remittance and other similar instruments
 - ▶ but does not include currency that is held for its numismatic value;
- (c) 'Gross amount charged' includes –
 - (i) payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and
 - (ii) any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise. "Associated enterprise" has the same meaning assigned u/s 92A of the Income-tax Act, 1961.

[ALL AMOUNTS EXCLUSIVE OF SERVICE TAX : In all the illustrations on service tax that are covered under this Chapter or subsequent chapter(s), unless otherwise stated, it must be assumed that all the amounts stated against the taxable services are towards 'value' and are not inclusive of service tax.]

Illustration 1 – Computation of service tax : A service provider provides taxable services valuing Rs. 10,00,000. Compute the amount of service tax payable by him.

Solution : Service Tax payable = $10,00,000 \times 10.3\% = \text{Rs. } 1,03,000$ (Rs. 1,00,000 Service Tax + Rs. 2,000 Education Cess + Rs. 1,000 Secondary and Higher Education Cess).

Illustration 2 – Computation of service tax : A service provider provides taxable services the gross amount charged in respect of which is Rs. 10,00,000. Compute the amount of service tax payable by him if the gross amount so charged is inclusive of service tax.

Solution : Service Tax payable = $10,00,000 \times 10.3 \div 110.3 = \text{Rs. } 93,382$.

Illustration 3 –Consideration other than cash : M/s. PQR Coaching Ltd. provides coaching in the field of engineering. One of the students, Mr. X, paid Rs. 15,000 in cash and a gold chain valuing Rs. 35,000 (cost to Mr. X's father who is a jeweler : Rs. 30,000) to M/s. PQR Ltd. Compute the amount of service tax payable by M/s. PQR Ltd. thereon @ 10.3%. Make suitable assumptions.

Solution: It is a case covered by section 67(1)(ii), whereunder it is provided that in case where the provision of service is for a consideration not wholly or partly consisting of money, the value be such amount in money as, with the addition of service tax charged, is equivalent to the consideration.

In this case, M/s. PQR Coaching Ltd. has received Rs. 15,000 in cash and gold valuing Rs. 35,000, therefore, the total consideration received by M/s. PQR Coaching Ltd. is Rs. 50,000 (inclusive of taxes). Hence, the service tax payable by M/s. PQR Coaching Ltd. = $\text{Rs. } 50,000 \times 10.3\% \div 110.3\% = \text{Rs. } 4,669$ approx.

Illustration 4 – Concessional consideration : M/s. ABC Coaching Ltd. provides coaching in the field of engineering. The normal fees is Rs. 50,000 per student. However, during the year, certain concessions were granted to needy students whereby only 15,000 (all inclusive) were charged from them. Compute the value of taxable service in the case of needy students.

Solution : It is a case of concession in charging fees from the students. M/s. ABC Coaching doesn't receive anything other than Rs. 15,000 from the needy/poor students.

Hence, the gross amount charged from the needy students (all inclusive) is Rs. 15,000 and, accordingly, the value of taxable service = Rs. 15,000 x 100% ÷ 110.3 = Rs. 13,599.

Illustration 5 –Computation of service tax : Ms. Priya rendered a taxable service to client. A bill for Rs. 40,000 was raised on 29.4.2010; Rs.15,000 was received from the client on 1.5.2010 and the balance on 23.5.2010. No service tax was separately charged in the bill. The question are :

- (a) Is Ms. Priya liable to pay service tax, even though the same has not been charged by her ?
- (b) Is case she is liable, what is the value of taxable service and the service tax payable ?

Solution : (a) Yes, she is liable to pay service tax, as the gross amount charged/amount received by her is deemed to be inclusive of service tax.

- (b) The value of taxable service is to be computed in accordance with the following formula –

$$\text{Value of taxable service} = \frac{\text{Gross amount charged (inclusive of service tax)} \times 100}{(100 + \text{Rate of service tax}) \text{ i.e. } 110.3}$$

Hence, -

Value of taxable service = 40,000 x 100 ÷ 110.3	36,265
Service tax @ 10.3% on the aforesaid value	3,735

Illustration 7 –Value of taxable service : M/s. Renu Consultants are a labour contractor of manpower to Messers Sanu Creations. They charge to the principal employer for the wages of their labour which amounts to Rs. 1,20,000 plus their service charges of Rs. 12,000 for arranging the labour. The issue is whether service is payable on the gross amount charged by them or only their charges for labour. Advise suitably.

Solution : As per section 67, the value of taxable service is the gross amount charged by the service provider for the provision of service.

Hence, the value of taxable service in this case = 1,20,000 + 12,000 = Rs. 1,32,000.

Illustration 8 –Gross amount charged and Value of taxable service : Hotel Marudhar Palace charges 10% of bill amount as service charges and the Department has asked them to pay service tax on it. The assessee has submitted that the amount @ 10% collected from the customers is subsequently disbursed among the staff.

Therefore, it is not the part of their income and cannot be included in gross amount charged by them. Examine the case and advise suitably.

Solution : As per section 67, the value of taxable service shall be the gross amount charged by service provider for the taxable service provided or to be provided by him.

Since the assessee, was charging service charges (@ 10% of bill amount) from its customers for providing the services, therefore, the said amount was liable to be included in the gross amount charged.

Therefore, service charges (@ 10% of bill amount) charged by Hotel Marudhar Palace are includible in gross amount charged by them and will be liable to service tax.

Small Service Provider (SSP)

EXEMPTION IN RESPECT OF AGGREGATE VALUE UPTO RS. 10 LAKHS FOR SMALL SERVICE PROVIDERS [Notification No. 6/2005-S.T., dated 1-3-2005]:

(1) **Eligible small service providers:** This exemption applies to a “small service provider”. Small service provider means a service provider the aggregate value of taxable services rendered by whom from one or more premises, **does not exceed Rs.10 lakhs in the preceding financial year.**

(2) **Quantum of exemption:** A small service provider is entitled to 100% exemption from service tax during the current financial year. Exemption shall be operative only for “aggregate value not exceeding Rs. 10 lakh” received in any financial year. If aggregate value received in any financial year exceeds Rs. 10 lakhs, then such excess over Rs. 10 lakhs shall be chargeable to service tax.

Illustration 10 –Computation of taxable value and service tax – Exemption & Advance receipt : J.C. Professionals, a partnership firm, gives the following particulars relating to the services provided to various clients by them for the quarter ended on 30-9-2011:

- (1) Total bills raised for Rs. 8,75,000 out of which bill for Rs. 75,000 was raised on an approved international Organization and payments of bills for Rs. 1,00,000 were not, received till 30-9-2011.
- (2) Amount of Rs. 50,000 was received as an advance from XYZ Ltd. on 25-9-2011 to whom the services were to be provided in October, 2011.

You are required to work out the :

- (a) Taxable value of services
- (b) Amount of service tax payable.

Solution : (a) Assuming that bill amount is exclusive of service tax, the taxable value of services = Bill amount ₹8,75,000 – Exemption in respect of services provided to International organization ₹ 75,000 + Amount received in advance, hence, liable to service tax ₹ 50,000 = ₹ 8,50,000.

Service Tax Payable if bill raised but amount not received – Point of Taxation Rules, 2011 : It is given in the question that the payments for bills for ₹ 1,00,000 were not, received till 30-9-2011. As per the Point of Taxation Rules, 2011, the point of taxation is date of invoice or the date of receipt of payment, whichever is earlier. In this case, the bill has already been raised during 30-9-2011, while the payment is received after that date; accordingly, the point of taxation lies during 30-9-2011 itself.

Illustration 11 –Small service provider exemption : Mr. X is the owner of the property had entered into an agreement with a bank. The agreement was entered into on 1/4/2010 to give the ground floor of the property on monthly rent of Rs.75,000. The bank had taken the property for the commercial use. Explain whether Mr. X is liable to pay service tax on the transaction with the bank?

Solution : The services of renting immovable property is a taxable service u/s 65(105) of the Finance Act, 1994. The value of taxable service = 75000 x 12 = 900,000.

Since, the aggregate value of payments received towards taxable services during the financial year 2009-10 doesn't exceed Rs.10 lakhs, hence, Mr. X will be eligible for Small Service Provider Exemption upto Rs. 10 lakhs, hence, he need not pay any service tax.

Illustration 12 – Computation of service tax liability : Ms. Priyanka, a proprietress of Royal Security Agency received Rs. 1,00,000 by an account payee cheque, as advance while signing a contract from providing taxable service; she receive Rs. 5,00,000 by credit card while providing the service and another Rs. 5,00,000 by a pay order after completion of service on January 31, 2011. All three transactions took place during financial year 2010-11. She seek your advice about her liability towards value of taxable service and the service tax payable by her.

Solution : As per Explanation to section 67, "Gross amount charged" includes payment by credit card, cheque, deduction from account and any form of payment by issue of credit notes / debit notes and book adjustment. Further, the expression "money" has been defined to include any cheque, pay order, currency, promissory note, letter of credit, draft, traveller's cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value.

Accordingly, the computation of service tax shall be as follows –

Rs.

(1)	Amount received through account payee cheque	1,00,000
(2)	Amount received by credit card	5,00,000
(3)	Amount received by pay order	5,00,000

Gross amount received during the year (A) 11,00,000

Alternative I : The said amount is exclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A \times 10.3]$ 1,13,300

Alternative II. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A \times 10.3\% \div 110.3\%]$ 1,02,720

Alternative III. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A - 10 \text{ lakhs}] \times 10.3\%$ 10,300

Alternative III. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A - 10 \text{ lakhs}] \times 10.3\% \div 110.3\%$ 9,338

Note : The students may make a suitable assumption and state the same clearly in their answer.

PAYMENT OF SERVICE TAX [Section 68 and Rule 6 of Service Tax Rules, 1994]:

According to **Section 68 of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules 1994**, the service tax shall be paid to the credit of the Central Government in the following manner –

Assessee	Duration of payment	Time of payment
Individual, Proprietary firm, or, a Partnership firm	Quarterly	(1) If tax is paid electronically through internet banking : by 6 th of the month (2) In any other case : by the 5 th of the month. Immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard.** [W.E.F. 1-4-

		2011]
Any other assessee	Monthly	<p>(1) If tax is paid electronically through internet banking : by 6th of the month</p> <p>(2) In any other case : by the 5th of the month.</p> <p>Immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard.** [W.E.F.1-4-2011]</p>
<p>** Services deemed to be provided in month/quarter ending on 31st March – Payable by 31st March itself [W.E.F. 1-4-2011]: The service tax on the service deemed to be provided in the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.</p> <p>SERVICE DEEMED TO BE PROVIDED – AUTHORS : The expression “service is deemed to be provided” means “point of taxation” as determined under the Point of Taxation Rules, 2011.</p> <p>Payment by electronic mode : Further, as per clarification issued by CBEC, where the tax is paid electronically, the same should be paid by 8 p.m. on the due date. If the same is paid later than 8 p.m. on the due date, it shall be deemed to have been paid on the next date.</p>		

Other provisions relating to payment of service tax –

- (A) **Rounding off :** Service tax to be paid shall be rounded off to **nearest multiple of a rupee.**
- (B) **Mode of payment [Rule 6(2) & 6(2A)] :** Service tax is to be deposited through GAR-7 Challan with the bank designated by the CBEC. If assessee deposits service tax by a cheque, then the date of presentation of cheque to the designated bank shall be the date on which service tax is treated as paid, provided cheque is realized, not disallowed.
- (C) **Service tax to be paid electronically if gross service tax liability is ₹ 10 lakh or more [Proviso to Rule 6(2)]:** Where an assessee has paid a total service tax of ₹ 10 or more
- Including the amount paid by utilization of CENVAT credit, in the preceding financial year, he shall deposit the service tax liable to be paid by him electronically, through internet banking.
- (D) **Adjustment of service tax paid in the case of service not provided, or, renegotiation of invoice [Rule 6(3), W.E.F. 1-4-2011]:** Where –
- an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or

(1)	Amount received through account payee cheque	1,00,000
(2)	Amount received by credit card	5,00,000
(3)	Amount received by pay order	5,00,000
	Gross amount received during the year (A)	11,00,000

Alternative I : The said amount is exclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A \times 10.3]$ 1,13,300

Alternative II. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A \times 10.3\% \div 110.3\%]$ 1,02,720

Alternative III. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A - 10 \text{ lakhs}] \times 10.3\%$ 10,300

Alternative III. The said amount is inclusive of service tax

And Ms. Priyanka is not eligible for Small Service Provider

Exemption $[A - 10 \text{ lakhs}] \times 10.3\% \div 110.3\%$ 9,338

Note : The students may make a suitable assumption and state the same clearly in their answer.

PAYMENT OF SERVICE TAX [Section 68 and Rule 6 of Service Tax Rules, 1994]:

According to **Section 68 of the Finance Act, 1994 read with Rule 6 of the Service Tax Rules 1994**, the service tax shall be paid to the credit of the Central Government in the following manner –

Assessee	Duration of payment	Time of payment
Individual, Proprietary firm, or, Partnership firm	Quarterly	(1) If tax is paid electronically through internet banking : by 6 th of the month (2) In any other case : by the 5 th of the month. Immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard.** [W.E.F.1-4-

- where the amount of invoice is renegotiated due to -
- deficient provision of service, or
- any terms contained in a contract,

The assessee may take the credit of such excess service tax paid by him, if the assessee -

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or
- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

Clarification by Department : If the amount of invoice is renegotiated due to deficient provision or in any other way changed in terms of conditions of the contract (e.g. contingent on the happening or non-happening of a future event), the tax will be payable on the revised amount provided the excess amount is either refunded or a suitable credit note is issued to the service receiver. **However, concession is not available for bad debts.**

(E) Option to pay service tax in advance & adjust it against future service tax liability, or, ADVANCE PAYMENT OF SERVICE TAX [Rule 6(1A)] : Every person liable to pay service tax, may, on his own volition, pay an amount as service tax in advance and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period. However, the assessee shall, -

- (c) intimate the details of the amount of service tax paid in advance, to the jurisdictional Superintendent of Central Excise within 15 days from the date of such payment; and
- (d) indicate the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70 of the Act.

(F) Adjustment of excess payment of service tax : 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, subject to the following conditions -

- (a) excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification,

- (b) excess amount paid by an assessee having Centralised Registration, on account of delayed receipt of details of payments towards taxable services may be adjusted *without monetary limit*.
- (c) in cases other than specified in (b) above, the excess amount paid may be adjusted with a monetary limit of **lakh** for a relevant month / quarter, **(amended w.e.f. 1-4-2011)**
- (d) the details and reasons for such adjustment shall be intimated to jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such adjustment.

(G) **Recovery of self-assessed service tax, if not paid in full or in part.** [Rule 6(6A), W.E.F. 1-4-2011]:

Where an amount of service tax payable has been self-assessed u/s 70(1), but not paid, either in full or part, the same, shall be recoverable alongwith interest in the manner prescribed u/s 87.

Thus, in case of non-payment of self-assessed tax, there will be no need to first issue show-cause notice u/s 73 of the Act and, then, recover the tax; direct recovery of tax has been permitted.

Interest @ 18% on delayed payment of service tax [Section 75]: Every person, liable to pay the service tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay **simple interest @ 18% (before 1-4-2011, the rate of interest was 13% p.a.)** for the period by which such crediting of the tax or any part thereof is delayed.

Illustration 1-Service tax : A service provider provided taxable services, the gross amount charged in respect of which is ₹ 10,00,000 plus ₹ 1,03,000 towards service tax charged separately in the bill, the total bill amount being ₹ 11,03,000. Compute the amount of service tax payable by him, in the following cases –

- (a) the client pays ₹ 11,00,000 in full and final settlement of the bill; or
- (b) the clients pays ₹ 10,00,000 in full and final settlement of the bill; or
- (c) the clients pays ₹ 9,00,000 in full and final settlement of the bill.

Solution: Position on or after 1-4-2011: As per Point of Taxation Rules, 2011, the point of taxation is date of issue of invoice or the date of receipt of payment of the service, whichever is earlier. Since, here, the invoice had been raised first in order, hence, the service tax was payable with reference to the date of invoice. Accordingly, the service provider shall be liable to pay a service tax of ₹ 1,03,000, as indicated in the bill.

Rule 6(3) of the Service Tax Rules, 1994 provides that where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment of part thereof, so received for the service provided to the person from whom it was received; or has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

If, in this case, it is assumed that the settlement referred to in (a) to (c) above relates to re-negotiation due to deficient provision of service, or any terms contained in a contract, then, the service provider shall be eligible for credit of the excess service tax paid by him, which has been computed below :

- (a) The excess service tax, of which credit can be availed by the service provider, relating to the amount adjusted against the bill = $11,03,000 - 11,00,000 = 3,000$ (inclusive of service tax). Accordingly, the service tax credit under Rule 6(3) of Service Tax Rules = $3,000 \times 10.3 \div 110.3 = 280$.
- (b) Service tax credit under Rule 6(3) of Service Tax Rules = $1,03,000 \times 10.3 \div 110.3 = 9,618$.
- (c) Service tax credit under Rule 6(3) of Service Tax Rules = $2,03,000 \times 10.3 \div 110.3 = 18,956$.

However, if the settlement of bill is due to any other reasons *e.g.* bad debts, etc., then, the benefit of Rule 6(3) shall not be available and the service tax shall continue to be 1,03,000.

Position before 1-4-2011: The service tax was payable only on receipt of value of taxable service. Accordingly, the service tax was computed as follows –

- (a) The sum of 11,00,000 so received is to be regarded as 'gross amount inclusive of service tax'. Accordingly, the service tax payable will be = $11,00,000 \times 10.3 \div 110.3 = 1,02,720$.
- (b) Service tax payable = $10,00,000 \times 10.3 \div 110.3 = 93,382$.
- (c) Service tax liability = $9,00,000 \times 10.3 \div 110.3 = 84,044$.

Illustration 2 – Computation of service tax with Due date : Mr. AJAR, a Chartered Accountant, raised an invoice for ₹ 27,575 (25,000 + 2,575 service tax) to a client on 20.4.2011. The client, however, has paid a lump-sum of ₹ 26,000 on 28.7.2011 for full and final settlement. (i) How much service tax Mr. AJAR has to pay and when does this tax become due for payment? (ii) What will be his liability, if the client refuses to pay service tax and pays only ₹ 25,000 in total?

Ans. As per Point of Taxation Rules, 2011, in case of individual or proprietary firms or partnership firms providing the Chartered Accountant's services falling u/s S.65(105)(s), the point of taxation shall be the date on which payment is received".

Thus, when the full bill amount (inclusive of service tax) is not received and payment is received in part only, then, in view of provisions of section 67 of the Act, the amount so received is deemed as inclusive of service tax, Therefore, the service tax liability shall be computed by making back-calculations. The Effective rate of service tax is 10.3% (10% service tax + 3% education cess on service tax).

Service Tax Law

Where the assessee fails to collect service tax for the services rendered by it or tax is not paid separately by the customer, the total receipts for rendering services should be treated as inclusive of service tax and the service tax be worked out accordingly. Service tax, being an indirect tax, is presumed to have been borne by consumer of goods/services and collected by the service provider from the recipient of service.

-CCEx. V. Advantage Media Consultant [2009] 14 STR J49 (SC).

The value of taxable service is to be computed in accordance with the following formula-

$$\frac{\text{Gross amount charged (inclusive of service tax)} \times 100}{100 + \text{Rate of service tax}}$$

$$\text{Value of taxable service} = \frac{\text{Gross amount charged (inclusive of service tax)} \times 100}{100 + \text{Rate of service tax}} \text{ i.e } 110.3$$

Hence, **(i) If payment received in ₹26,000**

$$\text{Value of taxable service} = 26,000 \times 100 \div 110.3 \quad 23,572$$

$$\text{Service tax @ 10.3\% on the aforesaid value} \quad 2,428$$

Hence, **(ii) If payment received in ₹25,000**

$$\text{Value of taxable service} = 25,000 \times 100 \div 110.3 \quad 22,665$$

$$\text{Service tax @ 10.3\% on the aforesaid value} \quad 2,335$$

Due date : Such service tax should be paid by 5th(or 6th in case of electronic payment) of October , 2011.