Class Test – Answer Sheet

CA Final – Indirect Tax (Service Tax)

Time Allowed — 3:00 Hours **27-09-2015** **Marks - 100**

All Questions are compulsory

Marks

1. (a) Computation of net service tax liability (to be paid in cash) of Anil Travels Pvt. Ltd. for October, 2014 : 4

Particulars		₹
Value of services		10,00,000
Less: Abatement @ 60%	[WN-1]	6,00,000
Value of taxable service		**4,00,000**
Service tax @ 12.36%		49,440
Less: CENVAT credit	[WN-2]	4,944
Net service tax liability to be paid in cash		**44,496**

Working Notes :

(1) Notification No. 26/2012-ST grants abatement of 60% in respect of services of renting of motorcab.

(2) With effect from 01-10-2014, Notification No. 26/2012-ST has been amended to provide that up to 40% CENVAT credit of input service of renting of a motorcab provided by a sub-contractor to the main contractor (providing service of renting of motorcab) could be availed by the main contractor if the sub-contractor is paying service tax on full value i.e., no abatement is being availed by sub-contractor. This credit will be available even if the main contractor pays the service tax on abated value.

Since Meru Cabs Pvt. Ltd. has paid service tax on full value (₹ 1,00,000 × 12.36% = ₹ 12,360), Anil Travels Pvt. Ltd. can avail credit upto ₹ 4,944 (40% of ₹ 12,360).

(3) Since Anil Travels Pvt. Ltd. is a company, reverse charge provisions will not apply in its case. Further, provisions of partial reverse charge will not apply in case of Meru Cabs Pvt. Ltd. also, as in its case services are provided in similar line of business.

(b) Computation of taxable value and service tax liability: 6

Particulars	Total amount	Abatement	Taxable value	Service tax @ 12.36%	Amount required to be reversed as per Rule 6
(1) Transport of passengers by general class *(Covered in negative list)[However as per Rule 6 – 2% of value of exempted service is required to be reversed] [2% of ₹ 150 lakhs]*	Nil	Nil	Nil	Nil	3.000
(2) Transport of passengers by sleeper class *(Covered in negative list) [However as per Rule 6 – 2% of value of exempted service is required to be reversed] [2% of ₹ 100 lakhs]*	Nil	Nil	Nil	Nil	2.000
(3) Transport of passengers by 1st Class air conditioned coach *(Liable for service-tax) [2% of ₹ 140 lakhs i.e. amount of abatement]*	200	140	60	7.416	2.800

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(4) Transport of passengers by 2 tier air conditioned coach *(Liable for service-tax)*	50	35	15	1.854	0.700
(5) Transport of passengers by 3 tier air conditioned coach *(Liable for service-tax)*	100	70	30	3.708	1.400
Total Receipts	**350**		**105**	**12.978**	**9.900**
Total amount payable					**22.878**
Less: CENVAT Credit					15.000
Total amount to be deposited					**7.878**

(c) According to Rule 7 of the Point of taxation Rules, 2011, the point of taxation in respect of persons who are required to pay tax as recipients of service under the Reverse Charge Mechanism shall be the date on which payment is made. However, where the payment is not made within a period of 3 months of the date of invoice, the point of taxation shall be the date immediately following the said period of 3 months. **3**

CASE-I : Since the payment has been made within 3 months from the date of invoice, point of taxation shall be the date of payment *i.e.* 1-12-2014.

CASE-II : Since the payment is not made within a period of 3 months of the date of invoice, the point of taxation shall be the date immediately following the said period of 3 months *i.e.* 01-01-2015.

2. (a) The facts of the case are similar to ***Indian Coffee Workers' Co-Op. Society Ltd. v. CCEx. & ST [2014] 34 STR 546 (All.)*** It was held that – **6**

- **Catering service provided at a place other than his own is covered under 'outdoor catering' :** Any catering service or service in connection with catering provided by a person at a place other than his own covered in outdoor catering service. The place may be provided to the caterer by the person receiving the service either by an agreement of tenancy or otherwise. Here, the assessee providing service at canteen of NTPC and LANCO, is an outdoor caterer.
- **Taxability of service does not depend on whether and to what extent person engaging service consumes edibles and beverages supplied :** Plea of supplier that food, edibles or beverages were provided to employees, customers and guests and not to NTPC or LANCO rejected as catering service could not be confused with who had actually consumed food, edibles and beverages. What is material is whether the service of an outdoor caterer is provided to another person and once it is, the charge of tax is attracted. The service receiver being LANCO and NTPC.
- **Charge of VAT distinct from charge of service tax :** The charge of service tax is not on the sale of goods but on a taxable service provided. Hence, fact that assessee was paying VAT on sale of goods on supply of food and beverages, would not exclude it from liability for payment of Service Tax on taxable service of "outdoor catering".

(b) The facts of the case are similar to **CST v. Arvind Mills Ltd. [2014] 35 STR 496 (Guj.).** It was held that – **3**

In the present case, the holding company in order to reduce its cost of manufacturing, deputed some of its staff to its subsidiaries or group companies for stipulated work or limited period. All throughout the control and supervision remained with the holding compay.

Also, the company was not in the business of providing recruitment or supply of manpower so as to be covered by the definition of Manpower Recruitment Supply Agency.

Actual cost incurred by the company in terms of salary, remuneration and perquisites was only reimbursed by the group companies. There is no element of profit or finance benefit. The subsidiary companies cannot be said to be their clients. Deputation of the employees was only for and in the interest of the company. There was no relation of agency and client. The employees deputed did not exclusively work under the direction of supervision or control of subsidiary company.

Thus, this would not fall under the category of "Manpower recruitment Agency".

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(c) The facts of the case are similar to **Commissioner v. GMK Concrete Mixing Pvt. Ltd. 2015 (38) STR J113 (SC).** The Apex Court held that the contract between the parties was to supply RMC and not to provide any taxable services. Therefore, since the Finance Act, 1994 is not a law relating to commodity taxation, the adjudication was made under mistake of fact and law fails. By this judgment, the Supreme Court dismissed the appeal filed by the Revenue. **2**

3. (a) (i) The taxable services which are exempt from whole of the service tax leviable thereon are exempted services. Accordingly, since services provided to United Nations are exempt from service tax vide Mega Exemption Notification No. 25/2012-ST dated 20-06-2012, such services are exempted services. **6**

(ii) Exempted services, inter alia, means a taxable service whose part of value is exempted on the condition that no credit of inputs AND input services, used for providing such taxable service, shall be taken. The condition for availing abatement in respect of services of transport of passengers by air is that CENVAT credit on inputs and capital goods has not been taken. However, there is no restriction on taking credit of the input services used for providing such services. Consequently, such services are not exempted services.

(iii) Exempted services, inter alia, means a taxable service whose part of value is exempted on the condition that no credit of inputs AND input services, used for providing such taxable service, shall be taken. The condition for availing abatement in respect of services of transport of passengers by a radio taxi is that CENVAT credit on inputs, capital goods and input services has not been taken. Consequently, such services are exempted services.

(b) The definition of the input service, inter alia, excludes construction services used for construction or execution of works contract of a building or a civil structure or a part thereof or laying of foundation or making of structures for support of capital goods. However, construction services provided for the provision of the construction service are included in the said definition. **3**

In the given case, the services of the sub-contractor have been used by the builder for provision of construction service. Hence, Logistics Builders Ltd. can avail the CENVAT credit of the service tax charged on the input service provided by the sub-contractor.

(c) As per the definition of capital goods, motor vehicles designed to carry passengers, registered in the name of the service provider, are eligible capital goods when same are used for providing output service of imparting motor driving skills. Hence, the motor vehicle purchased by Raghav Motor Driving School is eligible capital goods. **4**

However, Notification No. 33/2012-ST dated 20-06-2012 provides that a service provider shall not avail the CENVAT credit on capital goods received, during the period in which the service provider avails small service provider's exemption. Hence, Raghav Motor Driving School cannot avail CENVAT credit of the excise duty that has been paid on the said motor vehicle, in Financial Year 2014-15.

4. (a) Computation of value of taxable service and service tax thereon - under Rule 2A(ii) of Service tax (Determination of Value) Rules, 2006 ***(amount in ₹) :*** **6**

	Particulars	**Total amount Charged**	**% of total amount charged**	**Taxable value**
(1)	Services provided to Government by way of construction of a civil structure for official use. *(It amounts to original works.)*	75,00,000	40%	30,00,000
(2)	Services provided to Government by way of repair & maintenance school owned by it.	50,00,000	70%	35,00,000
(3)	Services provided to Governmental authority by way of construction of dam. *(The same is exempt from tax.)*	30,00,000	-	0
(4)	Services provided to the Government by way of construction of a residential complex predominantly meant for use of their employees. *(It amounts to original works.)*	80,00,000	40%	32,00,000

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(5) Services by way of construction of original works pertaining to an airport. *(It amounts to original works.)*	80,00,000	40%	32,00,000
Total Value of taxable services			**1,29,00,000**
Total Service tax payable @ 12.36%			**15,94,440**

(b) Computation of the value of taxable services & service tax *(amount in ₹)* : **6**

Particulars	₹
(1) Renting of immovable property to higher secondary school *(Liable for service tax)*	12,00,000
(2) Renting of immovable property to Commercial coaching centre (*(Liable for service tax)*	2,00,000
(3) Transportation services provided to students of higher secondary school *(Covered under mega exemption notification)*	Exempt
(4) Out door catering services provided to educational institutions running approved vocational courses *(Covered under mega exemption notification)*	Exempt
(5) Security Services provided to pre-nursery school *(Covered under mega exemption notification)*	Exempt
(6) House keeping and cleaning services in College *(Covered under mega exemption notification)*	Exempt
(7) Conduct of examination of ICAI *(Covered under mega exemption notification)*	Exempt
(8) Placement services provided to ICSI *(Liable for service tax)*	12,00,000
(9) Development of course content of ICMA institute *(Liable for service tax)*	2,00,000
(10) Training of Staff of Higher Secondary School *(Since the same is provided by XYZ Ltd., it is liable for service tax)*	1,50,000
Total taxable value	**29,50,000**
Service tax @ 12.36%	**3,64,620**

(c) **(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. **5**

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 ₹ 3090 (12.36% of ₹ 25,000) 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 ₹ 1,545 and RST Ltd. will pay ₹ 1,545.

(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 4.944% [12.36% of 40]. Thus, in the given case, service tax is payable on abated value [(₹ 2,472 / ₹ 50,000) × 100 = 4.944%].

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.

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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 ₹ 2,472 (4.944% of ₹ 50,000) is liable to be paid by PQR Ltd.

(d) Computation of value of taxable service and service tax liability of RWA of Blue Heaven Housing Society for the month of January, 2015 : **5**

Particulars	₹
Monthly subscription charges [WN 1(i)]	5,50,000
Amount collected towards electricity charges levied by State Electricity Board on the members of RWA [WN 1(ii)]	-
Amount collected towards electricity charges levied by State Electricity Board on the RWA in respect of electricity consumed for common use of lifts and lights in common area [WN 1(iii)]	4,00,000
Proceeds from sale of entry tickets to cultural programme held in the park of the Housing Society [WN 2]	-
Proceeds from sale of space for advertisement in members' directory [WN 3]	3,00,000
Value of taxable service inclusive of service tax	**12,50,000**
Value of taxable service (₹ 12,50,000 × 100/112.36) ***(rounded off)***	**11,12,496**
Service tax liability (₹ 12,50,000 × 12.36/112.36) ***(rounded off)***	**1,37,504**

Working Notes :

(1) Services provided by the RWA to its members will be liable to service tax as the RWA and its members shall be treated as distinct persons by virtue of Explanation 3(a) to the definition of "service" as contained in section 65B(44) of the Finance Act, 1994.

Mega Exemption Notification No. 25/2012-ST dated 20-06-2012 exempts the service provided by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

Circular No.175/01/2014-ST dated 10-01-2014 has, however, clarified the following in relation to exemption available to services provided by a Resident Welfare Association (RWA) to its own members:

(i) If per month per member contribution of any or some members of a RWA exceeds ₹ 5,000, entire contribution of such members whose per month contribution exceeds ₹ 5,000 would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.

(ii) Services provided by a RWA in the name of its members, acting as a "pure agent" of its members, are excluded from value of taxable service available for the purposes of exemption provided under mega exemption notification.

(iii) However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts and lights in common area, etc., the exclusion from the value of taxable service would not be available, since there is no agent involved in these transactions.

(2) Entry to entertainment events is not taxable as the same is covered in the negative list of services under section 66D(j) of the Finance Act, 1994.

(3) Sale of space for advertisements in business directories would attract service tax as only selling of space for advertisement in print media is included in the negative list of services under section 66D(g) of the Finance Act, 1994 and print media excludes business directories.

5. **(a)** **(i)** **The above statement is correct.** Earlier, entry 2 exempted any service provided by way of transportation of a patient to and from a clinical establishment from service tax only when the said service was provided by a clinical establishment or an authorised medical practitioner or paramedics. **6**

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W.e.f. 01-04-2015, the scope of this exemption has now been widened to extend the said exemption to ambulance services provided by all service providers. Therefore, now the ambulance services provided by an entity which is not a clinical establishment or an authorised medical practitioner or paramedics would also be exempt from service tax.

(ii) The above statement is incorrect. A new entry 44 has been inserted in the notification to exempt the services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables has been made exempt.

(iii) The above statement is incorrect. Prior to 01-04-2015, services by way of construction, erection, commissioning or installation of original works pertaining to an airport, port or railways, including monorail or metro were exempt from service tax under entry 14(a) of the notification.

W.e.f. 01-04-2015, Entry 14(a) has now been amended to withdraw such exemption in respect of an airport or port. Thus, service tax will be payable on construction, erection, commissioning or installation of original works pertaining to an airport or port.

(iv) The said statement is correct. Prior to 01-04-2015, services by a performing artist in folk or classical art forms of ***(i)*** music, or ***(ii)*** dance, or ***(iii)*** theatre, excluding services provided by such artist as a brand ambassador was exempt from service tax under entry 16 of the notification.

The scope of the said exemption has now been restricted by fixing a monetary limit of ₹ 1,00,000 in respect of a performance. Thus, now exemption to services provided by a performing artist in folk or classical art forms of ***(i)*** music, or ***(ii)*** dance, or ***(iii)*** theatre, will be limited only to such cases where amount charged is upto ₹ 1,00,000 for a performance. However, services provided by an artist as brand ambassador will continue to remain taxable.

(v) The said statement is incorrect. Prior to 01-04-2015, service tax was payable on 40% of the value of air transport of passengers for economy as well as higher classes, like business class.

Such abatement has now been bifurcated into two categories:-

(a) Abatement for transport of passengers by air, with or without accompanied belongings in economy class – 60%

(b) Abatement for transport of passengers by air, with or without accompanied belongings in other than economy class – 40%

Thus, in effect, abatement for classes other than economy has been reduced by 20% and therefore, service tax would be payable on 60% of the value of air travel in such higher classes.

(vi) The said statement is correct. Prior to 01-04-2015, Notification No. 31/2012-ST dated 20-06-2012 exempted the goods transport agency service provided for transport of export goods by road from —

- the place of removal to an inland container depot (ICD), a container freight station (CFS), a port or airport;
- any CFS or ICD to the port or airport.

Scope of this exemption has been widened w.e.f. 01-04-2015 vide Notification No. 4/2015 ST dated 01-03-2015 to exempt such services when provided for transport of export goods by road from the place of removal or from any CFS/ICD to a land customs station (LCS) also.

(b) The relevant provisions are discussed as under – **4**

(1) "**Bundled service**" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.

(2) Section 66F(2) has an overriding effect : The provisions of Section 66F(3), which are explained below, are subject to the provisions of section 66F(2), viz a specific description will be preferred over a general description.

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(3) Taxability of bundled service : As per Section 66F(3), the taxability of a bundled service shall be determined in the following manner, namely,–

(a) Natural bundle of Service - Classified as service which gives it the essential character : If various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character.

(b) Artificial bundle of service - Classified as one which attracts the highest tax liability : If various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax.

(c) The statement is not correct with reference to the service tax law as amended by Finance (No.2) Act, 2014. Prior to the amendment made by Finance (No.2) Act, 2014, unlike central excise law, no time limits for completion of adjudication had been prescribed under section 73 of the Finance Act, 1994. However, with effect from 06-08-2014, Finance (No. 2) Act, 2014 has brought service tax law at par with the central excise law by inserting a new sub-section (4B) in section 73 of the Finance Act, 1994. **3**

As per section 73(4B), the Central Excise Officer, where it is possible to do so, should determine the amount of service tax due within the following time limits from the date of notice:

Cases whose limitation is specified as 18 months in section 73(1) [i.e., cases not involving fraud, collusion, suppression of facts etc.)	6 months
Cases falling under the proviso to section 73(1) [i.e, cases involving fraud, collusion, suppression of facts etc.] or the proviso to section 73(4A) [cases where demand has arisen out of audit/investigation etc.)	1 year

(c) (i) Here Lotus Inc. provides services as an intermediary. As per the provision of Rule 9 of POP Rules, 2012 the place of provision of intermediary services shall be the location of the service provider. Here Lotus Inc. (service provider) is situated in non taxable territory, the place of provision of service shall be US. Hence, the commission received by Lotus Inc. from XYZ Ltd. shall not be taxable in India. **6**

(ii) Rule 4(a) of POPS Rules provides that the place of provision of services provided in respect of goods that are required to be made physically available by the recipient of service to the provider of service in order to provide the service, is the location where the services are actually performed.

However, with effect from 01-10-2014, second proviso to rule 4(a) has been substituted to lay down that rule 4(a) will not apply in the case of a service provided in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any use in the taxable territory, other than that which is required for such repair.

Consequently, such a case will be covered under rule 3 of POPS Rules (general rule) and the place of provision of service will be the location of service receiver. In the given case, goods have been temporarily imported by OP Fabricators and have been re-exported after the repairs without being put to any use in Mumbai (taxable territory). Therefore, place of provision of repair services carried out by OP Fabricators will be determined by rule 3 of POPS Rules. Consequently, the place of provision of service will be the location of service receiver i.e. Hongkong.

(iii) The contention of Mr. Sumit is not correct. Under Service tax law the taxability of any service depends upon the provisions of Section 66B of the Finance Act, 1994 and not in terms of Income-tax Act, 1961. The fact that Mr. Sumit is a nonresident is irrelevant for determining the taxability of services received by him. As per section 66B of Finance Act, 1994, service tax is levied on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another.

As per rule 9 of Place of Provision of Services Rules, 2012, the place of provision of services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders is the location of the service provider.

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Account has been defined under rule 2(b) of POPS Rules to mean an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account. Services linked to or requiring opening and operation of bank accounts such as lending, deposits, safe deposit locker etc. are few examples of services that are provided by a banking company or financial institution to an "account holder" in the ordinary course of business.

Since, in the present case, services (safe deposit locker) are provided by Ahmedabad Branch of Safe and Sound Bank to an account holder (Mr. Sumit), Rule 9 of POPS Rules will apply. Thus, the place of provision of service would be Ahmedabad and since Ahmedabad falls in taxable territory, locker fee would be liable to service tax.

6. **(a)** As per section 66D of Finance Act, 1994, service of transportation of passengers, with or without accompanied belongings, by inter alia - **3**

- **(i)** railways in a class other than an air conditioned coach;
- **(ii)** metro, monorail or tramway;
- **(iii)** metered cabs or auto rickshaws.

are included in the negative list of services.

Therefore in the given case, service tax leviability on the various passenger transportation services used by Mr. A will be determined as under:

- **(i)** Rail travel in AC train – Not covered under negative list and thus, liable to service tax.
- **(ii)** Travel in a car rented for the whole day on a lumpsum consideration – Since travel by only metered cabs is covered in negative list, travel in a car rented for the whole day on a lumpsum consideration will be liable to service tax.
- **(iii)** Metro travel – Covered in negative list and hence, not taxable.
- **(iv)** Air travel – Not covered under negative list and thus, liable to service tax.
- **(v)** Radio taxi travel – Not covered in negative list and thus, liable to service tax.
- **(vi)** Rail travel in sleeper class - Covered in negative list and hence, not taxable.

(b) ***Export of services [Rule 6A(1)] :*** The provision of any service provided or agreed to be provided shall be treated as export of service when,– **3**

- **(i)** the provider of service is located in the taxable territory,
- **(ii)** the recipient of service is located outside India,
- **(iii)** the service is not a service specified in the Section 66D of the Act,
- **(iv)** the place of provision of the service is outside India,
- **(v)** the payment for such service has been received by the provider of service in convertible foreign exchange, and
- **(vi)** the provider of service and recipient of service are not merely establishments of a distinct person in accordance with Explanation 3(b) of Section 65B(44) of the Act.

(c) **(i)** **Exempt.** With effect from 11-07-2014, services received by Reserve Bank of India from outside India in relation to management of foreign exchange reserves have been exempted from service tax. External asset management services received by Reserve Bank of India from overseas financial institutions is a specialized financial service in the course of management of foreign exchange reserves [Mega Exemption Notification No. 25/2012-ST dated 20-06-2012 amended]. **2**

(ii) **Exempt.** With effect from 11-07-2014, services provided by an Indian tour operator to a foreign tourist in relation to a tour wholly conducted outside India have been exempted from service tax [Mega Exemption Notification No. 25/2012-ST dated 20-06-2012 amended].

(d) **Provisions regarding rejection of Value [Rule 4] :** The provisions relating to rejection of value are as under– **3**

(1) **Power to make inquiry :** The Central Excise Officer has the power to satisfy himself as to the accuracy of any information furnished or document presented for valuation and provisions of

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Rule 3 shall not be construed as restricting or calling into question the power of the Central Excise Officer to satisfy himself as to the accuracy of any information furnished or document presented for valuation.

(2) Issuance of show cause notice : Where the Central Excise Officer is satisfied that the value so determined by the service provider is not in accordance with the provisions of the Act or these rules, he shall issue a notice to such service provider to show cause why the value of such taxable service for the purpose of charging service tax should not be fixed at the amount specified in the notice.

(3) Determination of value by Central Excise Officer : After providing a reasonable opportunity of being heard, the Central Excise Officer shall determine the value of such taxable service, for the purpose of charging service tax, in accordance with the provisions of the Act and these rules.

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

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, 2014 i.e., within 30 days from April 15, 2014 (date of completion of such taxable service).

(b) The action taken by Central Excise Officer is valid in law. Section 87 of the Finance Act, 1994 sets out the recovery provisions for service tax dues. With effect from 06-08-2014, Section 87 has been amended to provide that where the person (predecessor) from whom recovery is to be made — **3**

- transfers/disposes of his business/trade in whole or in part, or
- effects any change in the ownership thereof,

in consequence of which he is succeeded in such business or trade by any other person,

then all goods, in the custody or possession of the successor may also be attached and sold for recovering the sums due from such predecessor at the time of such transfer/disposal or change. Such attachment and sale could however be effected only after obtaining the written approval of the Commissioner of Central Excise.

Thus, Central Excise Officer"s action of recovering the amount due from Mr. Rakesh (predecessor), by attaching and selling the goods in the custody of Mr. Ramesh (successor), is correct in law.

(c) (i) The said statement is valid. Earlier, only a Joint Commissioner of Central Excise could authorize any Superintendent of Central Excise to search and seize or he himself could search and seize under section 82. **4**

Under the amended section 82, Additional Commissioner and a notified Central Excise officer have also been empowered to authorize, in writing, any Central Excise Offer to search and seize or to search and seize themselves.

(ii) The said statement is valid. Earlier Board constituted Committee of Chief Commissioners or Commissioners to review the cases before filing of departmental appeal by notification in the Official Gazette under section 86(1A).

Section 86(1A)(i) has been amended to provide that such Committees will now be constituted by an order of the Board.