Shree's Tax Bulletin

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Shree Tax Chambers | Bengaluru | India

Integrity | Speed | Expertise

Dear Professional Colleagues,

Glad to present my official monthly Shree's Tax Bulletin's ninth issue (much delayed...!). Hope, the ninth issue of the Tax Bulletin provides much needed insight on key developments happened in both Domestic as well as International Taxation including Notifications, Circulars, Orders and Instructions, if any, issued up to August, 2018.

India – Positive Notes

During last month, the International Monetary Fund has released its annual assessment on Indian economy, with predictions for 2018-19 and 2019-20. According to its Report – There will be no change in the forecast for India's GDP growth i.e. it will remain at 7.3% for the current fiscal year and 7.5% for 2019-20. The second observation says that gross investment as a percentage of GDP is projected to jump from 30.6% in Financial Year 2018 to 32.2% this year. Its third observation on 'Exports' says that merchandise exports will be a strong 13.2% this fiscal year. Its fourth observation on 'Inflation' is expected to raise in consumer price inflation to an average of 5.2% this fiscal. With respect to 'Money Supply' is expected to go up by 11.4% this fiscal, a rate of growth not seen since 2013-14.

In personal Front, a very first time got an opportunity to present my Paper titled GST - New Indirect Tax Regime - Transition, Transformation and Way forward in Institute of Cost Accountants of India's a National Conference and as a privilege, same has got published on India's leading Tax Law Info Service Providers. In addition to National level Paper Presentation, one more Article titled 'GST – Transition, Transformation & Way forward – Part 1 – On ICSI Mysore Chapter's Official e-Magazine.

Few more advanced articles are on its way!!

Official Academic YouTube Channel *– As informed earlier, glad to share that Shree Tax Chambers, launched its 'Official Academic YouTube channel' on 16.09.2018 at Srirangam, Trichy, Tamil Nadu, India. Its official link to subscribe is - http://www.youtube.com/ekcelacademy. At this moment of joy, Shree Tax Chambers extend its gratitude towards Mr. Alok, ACS, Founder of Ekcel Academy, Mysuru, India.*

As Robert Frost said, "The woods are lovely, dark and deep. But I have promises to keep, and miles to go before I sleep,
and miles to go before I sleep……" So I will ...!!

Look forward to your feedback at shreetaxchambers@bsnl.in

Happy Reading..!!

Prabhakar K S
A Budding Tax Law Professional

Shree Tax Chambers
Bengaluru | India

25.09.2018

Income Tax

Immunity u/s. 270AA of the Income Tax Act, 1961

Central Board of Direct Taxes (CBDT) vide Circular No. 5/2018 dated 16.08.2018 clarifies that where an assessee makes an application seeking immunity u/s. 270AA of the Act, *it shall not preclude such assessee from contesting the same issue in any earlier assessment year*. Further, *the Income-tax Authority, shall not take an adverse view* in the proceedings for penalty under section 271(1)(c) of the Act in earlier assessment *years merely on the ground that the assessee has acquiesced* on the issue in any later assessment year by preferring an immunity on such issue under section 270AA of the Act.

Postponement of Form 3CD Amendments

CBDT vide Circular No. 6/2018 Dated: 17.08.2018, amends the existing Form No. 3CD with effect from 20.08.2018.

Section 44AB of the Income-tax Act, 1961 read with Rule 6G of the Income-tax Rules, 1962 requires prescribed persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The CBDT has decided to postpone the proposed reporting under Clause till 31.03.2019. *Therefore, for Tax Audit Reports to be furnished on or after 20.08.2018 but before 01.04.2019, need not to be required to furnish such details called for under the said clause 30C / clause 44 of the Tax Audit Report.*

Departmental Appeals & Monetary Limit – Further Amendments

CBDT vide Circular F. No. 279/Misc. 142/2007-ITJ (Pt) dated 20.08.2018 amends its earlier Circular No. 3 of 2018 dated 11.07.2018.

The previous Circular deals with the monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs. Para 10 of the said Circular provides that adverse judgments relating to the issues enumerated in the said para should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 thereof or there is no tax effect. Para 10 of the Circular No.3 of 2018 dated 11.07.2018 are *hereby amended as under:*

"10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

- a. *Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or*
- b. *Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or*
- c. *Where Revenue Audit objection in the case has been accepted by the Department, or*
- d. *Where addition relates to undisclosed foreign income/ undisclosed foreign assets (including financial assets)/ undisclosed foreign bank account.*
- e. *Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI, ED, DRI, SFIO, Directorate General of GST Intelligence (DGGI).*
- f. *Cases where prosecution has been filed by the Department and is pending in the Court. "*

Amendments to 'No TDS or Lower TDS Deduction'

In order to rationalize and make the process of issuance of certificate for no deduction of tax or deduction/collection of tax at lower rate electronic, the existing Form No. 13 and relevant I.T. Rules are proposed to amend. Accordingly, a draft notification proposing amendments in Form No. 13, and rules 28, 28AA, 28AB, 37G and 37H of the IT Rules has been issued for comments from stakeholders and general public. Comments and suggestions on the draft notification may be sent by 04.09.2018 electronically at the email address ts.mapwal@nic.in

Surge in Income Tax Returns

According to Ministry of Finance, there has been a considerable amount of improvement in the number of Income Tax Returns filed during Financial Year 2018 (up to 31.08.2018, i.e. the extended due date of filing) compared to the corresponding period in the preceding year. The total number of ITRs e-filed upto 31.08.2018 was **5.42 crore** as against 3.17 crore upto 31.08.2017, an increase of **70.86%**. Almost 34.95 lakh returns were uploaded on 31.08.2018 itself, being the last date of the extended due date of filing of ITRs.

The total number of e-returns of salaried Individual taxpayers filed till 31.08.2018 in-creased to 3.37 crore from 2.19 crore returns filed during the corresponding period of 2017, registering an increase of 1.18 crore returns translating into a growth of almost **54%**.

Similarly, a growth has been witnessed in the number of returns e-filed by persons availing the benefit of Presumptive Tax, with 1.17 crore returns having been filed up-to 31.08.2018 compared to 14.93 lakh returns upto 31.08.2017 such as registering a massive increase of **681.69**%.

Final Rule for computation of FMV of inventory converted into capital asset

In relation to an Indian company, the balance-sheet of such company including the notes annexed thereto and forming part of the accounts as drawn up on the valuation date which has been audited by the auditor of the company appointed under the laws relating to companies in force; and

In relation to a company, not being an Indian company, the balance-sheet of the company including the notes annexed thereto and forming part of the accounts as drawn up on the valuation date which has been audited by the auditor of the company, if any, appointed under the laws in force of the country in which the company is registered or incorporated.

Determination of fair market value for inventory

An immovable property, being land or building or both shall be the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of such immovable property on the date on which the inventory is converted into, or treated, as a capital asset.

Jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, shares or securities shall be the value determined in the manner provided in sub-rule (1) of rule 11UA and for this purpose the reference to the valuation date in the rule 11U and rule 11UA shall be the date on which the inventory is converted into, or treated, as a capital asset;

Other than those specified above, the price that such property would ordinarily fetch on sale in the open market on the date on which the inventory is converted into, or treated, as a capital asset.

Goods & Services Tax

GST Council's 29th Meeting

The all-powerful GST Council in its 29th Meeting held at Vigyan Bhavan, New Delhi on 21.08.2018 has discussed the key concerns of MSMEs and Digital Sops. Key Takeaways -

1. **Cash back on Digital Transactions**

   To promote digital economy, the GST Council has recommended a cash back or digital sops. It has proposed that users making transactions through BHIM application / RuPay cards should get 20% of GST paid as cash back with cap of Rs 100. If implemented, expected Revenue forgone is approximately of Rs 980 crore per annum.

2. **Sub-committee for MSME's issues**

   To address the MSMEs concerns, the council has decided to create a sub-committee consisting of state finance ministers. This GoM has been assigned to evaluate the certain proposals meant to give relief to MSMEs with a turnover up to Rs 1.5 crore.

3. **Next or 30th GST Council's Meeting**

   The GST Council's next or 30th meeting is scheduled to be convened through Video Conferencing on 28.09.2018.

GST (Amendment) Bills, 2018 Received Presidential Assent on 29.08.2018

1. The Central Goods and Services Tax (Amendment) Act, 2018.
2. The Integrated Goods and Services Tax (Amendment) Act, 2018.
3. The Union Territory Goods and Services Tax (Amendment) Act, 2018.
4. The Goods and Services Tax (Compensation to States) Amendment Act, 2018.

   Next: State Legislatures are also required to Pass them.

GST Revenue Collection – August 2018

End of the day, Revenue Matters..!!

The total gross GST revenue collected in the month of August, 2018 is **Rs. 93,960 crore** of which CGST is **Rs. 15,303 crore**, SGST is **Rs. 21,154 crore**, IGST is **Rs. 49,876 crore** (including **Rs. 26,512 crore** collected on imports) and Cess is **Rs. 7,628 crore** (including **Rs. 849 crore** collected on imports).

The total number of GSTR 3B Returns filed for the month of July up to 31 August, 2018 is **67 lakh**. This is slightly higher than 66 lakh returns of the month of June filed up to 31 July, 2018. The last date of filing return of July, 2018 in the State of Kerala was extended upto 5 October, 2018.

The total revenue earned by Central Government and the State Governments after settlement including provisional settlement of Rs. 12,000 crore in the month of August, 2018 is **Rs. 36,963 crore** for CGST and **Rs. 41,136 crore** for the SGST. For the bi-monthly period June-July, 2018, compensation of **Rs. 14,930 crore** has been released to the States. The revenue collected in August, 2018 of Rs. 93,960 crore is slightly lower than July, 2018 collection of **Rs. 96,483** crore, and June, 2018 collection of **Rs. 95,610** crore. The chart shows trends in revenue during the current year.

Wake Up Consumers!

To make complaint against Profiteering is Your Right

**NAA has started a Helpline No.
To resolve all the queries related to the registration of complaints against profiteering.**

**Helpline No.
011-21400643.**

- Guidelines to register the complaint
- Information
- Resolve Queries

Between 9:30 AM to 1:00 PM And Between 1:30 PM to 6:00 PM. On working Days

Notifications, Circulars & Orders issued during the month of August 2018

Sl. No.	Statutes	Notifications	Circulars	Orders
1	Central Tax	08	04	-
	Central Tax (Rate)	01		
2	Integrated Tax	-	-	-
	Integrated Tax (Rate)	01		
3	Union Territory Tax	-	-	-
	Union Territory Tax (Rate)	01		
4	Compensation Cess	-	-	-
	Compensation Cess (Rate)	-		

Central Tax

Notification No & Date	Purpose
31/2018-Central Tax, Dated 06.08.2018	To lay down the special procedure for completing migration of taxpayers who received provisional IDs but could not complete the migration process.
32/2018-Central Tax, Dated 10.08.2018	To prescribe the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs. 1.5 crores for the months from July, 2018 to March, 2019
33/2018-Central Tax, Dated 10.08.2018	To prescribe the due dates for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs. 1.5 crores for the period from July, 2018 to March, 2019
34/2018-Central Tax, Dated 10.08.2018	To prescribe the due dates for filing FORM GSTR-3B for the months from July, 2018 to March, 2019
35/2018-Central Tax, Dated 21.08.2018	To extend the due date for filing of FORM GSTR-3B for the month of July, 2018
36/2018-Central Tax, Dated 24.08.2018	To extend the due dates for filing FORM GSTR-3B for the months of July, 2018 and August, 2018
37/2018-Central Tax, Dated 24.08.2018	To prescribe the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs. 1.5 crores for the months of July, 2018 and August, 2018
38/2018-Central Tax, Dated 24.08.2018	To prescribe the due dates for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs. 1.5 crores for the quarter July, 2018 to September, 2018

Central Tax (Rate)

Notification No & Date	Purpose
22/2018-Central Tax (Rate), Dated 06.08.2018	To exempt payment of tax under section 9(4) of the CGST Act, 2017 till 30.09.2019.

Integrated Tax (Rate)

Notification No & Date	Purpose
23/2018-Integrated Tax (Rate), Dated 06.08.2018	To exempt payment of tax under section 5(4) of the IGST Act, 2017 till 30.09.2019.

Union Territory Tax (Rate)

Notification No & Date	Purpose
22/2018-Union Territory Tax (Rate), Dated 06.08.2018	To exempt payment of tax under section 7(4) of the UT GST Act, 2017 till 30.09.2019.

Central Tax – Circulars

Circular No & Date	Purpose
52/2018 Dated 09.08.2018	To clarify applicability of GST rates on various goods and services.
53/2018 Dated 09.08.2018	To clarify applicability of GST on petroleum gases retained for the manufacture of petrochemical and chemical products
54/2018 Dated 09.08.2018	To classify fertilizers supplied for use in the manufacture of other fertilizers at 5 % GST rate.
55/2018 Dated 10.08.2018	To levy Tax on services provided by Industrial Training Institutes (ITI).
56/2018 Dated 24.08.2018	To remove restriction on refund of accumulated Input Tax Credit on fabrics.

Customs

Notifications, Circulars & Instructions issued during the month of August 2018

Sl. No.	Notifications		Circulars	Instructions
1	Tariff	04	06	02
2	Non- Tariff *	14		
3	Safeguards	-		
4	Anti-Dumping Duty	05		
5	CVD	-		

Tariff Notifications

Notification No & Date	Purpose
56/2018-Customs, Dated 03.08.2018	To further amend notification No. 50/2017-customs dated 30th June 2017, to give effect to serial number 14A and the second proviso to the notification from the 18th day of September, 2018 to delay the implementation of retaliatory duties against US till 18th September, 2018.
57/2018-Customs, Dated 07.08.2018	To prescribe effective rate of customs duty on Screw or SIM socket / other mechanical items (metal) for cellular mobile phone.
58/2018-Customs, Dated 07.08.2018	To further amend notification No. 82/2017-customs dated 27th October 2017, to increase Ad-valorem component of BCD from 10% to 20% on 328 tariff lines of carpets, apparels and other textile products.
59/2018-Customs, Dated 21-08-2018	To exempt BCD & IGST on goods imported for donation for relief & rehabilitation of the people of Kerala affected by the floods upto 31.12.2018.

**** Non-Tariff – For latest Exchange Rates, kindly check http://www.cbec.gov.in/Customs-Notifications***

Anti-Dumping Duty

Notification No & Date	Purpose
38/2018-Cus (ADD), Dated 02.08.2018	To extend Notification No. 24/2014-Customs (ADD) dated 21st May, 2014.
39/2018-Cus (ADD), Dated 20.08.2018	To amend Notification No. 26/2013-Customs (ADD) dated 28th October, 2013, concerning imports of 'Paracetamol' originating in or exported from China PR.
40/2018-Cus (ADD), Dated 20.08.2018	To amend Notification No. 8/2018-Customs (ADD) dated 15th March, 2018.
41/2018-Cus (ADD), Dated 24.08.2018	To provide for provisional assessment of jute goods exported from Bangladesh by M/s. Natore Jute Mills, Bangladesh (Producer) and M/s PNP Jute Trading LLC, USA (Exporter/ Trader) till the final findings of New Shipper Review in this regard are received.
42/2018-Cus (ADD), Dated 24.08.2018	To provide for provisional assessment of jute goods exported from Bangladesh by M/s Aziz Fibres Limited, Bangladesh (Producer/ Exporter) till the final findings of New Shipper Review in this regard are received.

Circulars

Circular No & Date	Purpose
25/2018 Dated 08.08.2018	Standard operating procedures for discharge of bonds executed by nominated agencies/ banks under Notification no. 57/2000-Customs dated 08.05.2000.
26/2018 Dated 10.08.2018	Simplification and rationalization of processing of AEO-T1 application
27/2018 Dated 14.08.2018	Clarification regarding bank guarantee requirement for bond executed by EOUs
28/2018 Dated 30.08.2018	Forwarding of samples for testing to the Outside Laboratories
29/2018 Dated 30.08.2018	Pilot Implementation of Paperless processing under SWIFT-uploading of supporting documents (eSANCHI) in Exports
30/2018 Dated 29.08.2018	Setting up of the Office of Commissioner (Investigation-Customs) created under CBIC

Instructions

Instruction No & Date	Purpose
F.No.354/31/2018 - TRU(Pt) – Dated 13.08.2018	Safeguard duty on solar cells whether or not assembled in modules or panels
F.No. 394/35/2014-Cus(AS) – Dated 29.08.2018	Sharing of cases booked by Customs field formations under the Information Sharing Protocol with CEIB

International Taxation

Advance Pricing Agreements - Latest Developments

The CBDT on 31.08.2018 released its much awaited Second Annual Report 2017-18 of its Advance Pricing Agreement (APA) programme. The annual report provides a detailed report card of the performance of the programme along with qualitative and statistical analysis. The APA programme in India is six years old now and is heralded as a success.

Significant Economic Presence – Revised Due Date to submit Comments

As per the allocation of taxing rules under Article 7 of Double Taxation Avoidance Agreements, business profit of an enterprise is taxable in the country in which the taxpayer is a resident. However, if an enterprise carries on its business in another country through a 'Permanent Establishment' (PE) situated therein, such other country may also tax the business profits attributable to the 'PE'. For this purpose, *'PE' means a 'fixed place of business' through which the business of an enterprise is wholly or partly carried out provided that the business activities are not of preparatory or auxiliary in nature and such business activities are not carried out by a dependent agent.*

The Central Government, vide, the Finance Act, 2018 has introduced the concept of ***'Significant Economic Presence' (SEP)*** in the Income-tax Act, 1961 ('the Act') for taxation of non-residents (NR) in India by widening the definition of **"business connection"** through **Explanation 2A to section 9(1)(i)** of the Act. The definition of 'business connection', was clarified to provide that *a NR's significant economic presence in India shall constitute "business connection" of the NR in India and the "significant economic presence" for this purpose shall mean-*

- any transaction in respect of any goods, services or property carried out by a NR in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or

- systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

It is further provided that the transactions or activities shall constitute significant economic presence in India, whether or not the agreement for such transactions or activities is entered into in India or the non-resident has a residence or place of business in India or renders services in India. Moreover, it is also provided that only so much of income as is attributable to the transactions or activities referred above shall be deemed to accrue or arise in India..

Accordingly***, for the purpose of determining significant economic presence of a non-resident in India, the threshold for the aggregate amount of payments arising from the specified transactions and for the number of users requires to be prescribed.***

Hence, the Central Government has sought suggestions/comments of stakeholders and the general public on:

1. Revenue threshold of transaction in respect of physical goods or services carried out by a NR in India;
2. Revenue threshold of transaction in respect of digital goods or services or property including provision of download of data or software carried out by a NR in India;
3. Threshold for number of 'users' with whom a NR engages in interaction or carries out systematic and continuous soliciting of business activities in India through digital means.

Extended due date to submit the Comments and suggestions is by 30th September, 2018 at the email address ***ustpl3@nic.in.***

Tax Calendar – September 2018

Statues	Due Date	Compliance
Income Tax	07.09.2018	• To deposit tax deducted/collected the month of August, 2018.
	14.09.2018	• To issue of TDS Certificate for tax deducted U/s. 194-IA & 194-IB during the month of July, 2018.
	15.09.2018	• To file Form 24G by Govt. office where TDS for the month of August, 2018 has been paid without the production of a challan. • To remit Second Installment of advance tax for the assessment year 2019-20
	30.09.2018	• To furnish Audit Report under section 44AB for the assessment year 2018-19 in the case of a corporate-assessee or non - corporate assessee (who is required to submit his/its return of income on 30.09.2018). *Due Date extended to 15.10.2018.* • To furnish Annual return of income for the assessment year 2018-19 if the assessee not having any international or specified domestic transaction i.e. corporate-assessee or non-corporate assessee but whose books of account are required to be audited or working partner of a firm whose accounts are required to be audited. *Due Date extended to 15.10.2018.* • To furnishing of challan-cum-statement in respect of TDS deducted U/s. 194-IA or 194-IB during the month of August, 2018 • To claim foreign tax credit, i.e. foreign income offered for tax for the previous year 2017-18 and of foreign tax deducted or paid on such income in Form no. 67. (If due date of submission of return of income is 30.09.2018). • To intimate U/s. 286 (1) by a resident constituent entity of an international group whose parent is non-resident.
GST	10.09.2018	• To file GSTR 7 i.e. TDS Returns for the month of August, 2018 • To file GSTR 8 by E-Commerce operators for the month of August, 2018
	11.09.2018	• To file GSTR 1 for the month of August, 2018 (for persons with Turnover of above Rs. 1.5 Crore. Also those who have turnover of less than 1.5 crore but opted monthly).
	20.09.2018	• To file GSTR 3B for the month of August, 2018. • To file GSTR 5 for the month of August, 2018 (for Non Resident taxable person). • To file GSTR 5A for the month of August, 2018 (for OIDAR services).
	30.09.2018	• To file GSTR 6 by Input Service Distributors for July 2017 to August 2018

The Founder

Mr. Prabhakar K S is the founder of Shree Tax Chambers, a spiritually inclined & budding Tax Law Professional, having a decade of solid exposure in Indian Tax Laws, Company Laws & other allied corporate Laws. He is an ambitious Post graduate in Commerce, Post Graduate Diploma in Finance & Taxation and on the verge of acquiring Tax Laws related professional qualifications.

The Chamber

Shree Tax Chambers, a well-founded professional set--up, on strong three pillars of Integrity, Speed & Expertise, with a sole purpose of providing an excellent advice on Indian as well as International Tax Laws which includes Income Tax, Goods & Services Tax (GST), Customs & Transfer Pricing & others, established on 1st January, 2015 on an auspicious Vaikunta Ekadasi day at Srirangam, Trichy, Tamil Nadu, presently has its office at Rajajinagar, Bengaluru, India.

"Today our world is being brought together not simply by the mandate of nations, but by the power of individuals who allow themselves to hope for a better life. Nothing holds greater possibility than a world with hope for its own future. Although the road may not be easy or quick we think we can help our clients achieve greater success."

Disclaimer

Shree's Tax Bulletin is an informational bulletin intended to provide specific information to taxpayers and other stakeholders. Contents are accurate as of the date issued. However, stakeholders are advised to aware that subsequent changes in the said Tax Laws.

Information published in the Newsletter are taken from public domain and believed to be accurate. The Founder or the Chamber takes no responsibility for accuracy and reliability of information published in the Bulletin.

The future belongs to those who believe in the beauty of their dreams. E. Roosevelt

Shree Tax Chambers TM

Integrity | Speed | Expertise

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Domestic & International Taxation

Ramanuja Millennium Year – 2017