63RD ISSUE

10 APR 2016 – 16 APR 2016

TAX CONNECT

GST	
SERVICE TAX	CENTRAL EXCISE
CUSTOMS	INCOME TAX
	STATE TAXES

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EDITORIAL

Friends

As the professionals in Trade & Industry are now busy with closing their books of accounts, just to update you on the recent development as follows -

After the overhauling of Rule 6 of Cenvat Rules in the Finance Budget 2016, there is another amendment to Rule 6(3) of Cenvat Credit Rules as follows –

In case of manufacture of exempted and non exempted goods and/or exempted and non-exempted services, the assessee has an option to avail the Cenvat Credit and then pay 6% of value of the exempted goods and 7% of value at the beginning of the period to which the payment relates and the credit of input and input services taken during that period. Hence this payment shall be subject to of the exempted services.

This payment was previously limited to a maximum of the closing balance of Cenvat credit lying in the account of the assessee at the end of the period to which the payment would relate. Now vide Notification No. 23/2016-Central Excise (N.T.) dated 01.04.2016, this payment has shall now this payment shall be subject to maximum of the sum total of opening balance of the credit of input and input services available.

While this is a logical amendment yet the CBEC has not solved the actual hardship i.e. the reversal on the opening balance, which to our understanding is being subject to reversals twice in case of non-utilization of Cenvat Credit in the same year.

In WB VAT, Dealers are requested to kindly take note of the following important Circulars -

Vide Trade Circular 03/2016 dated 31.03.2016, dealers have been given the last opportunity to furnish the correct PAN information online by 30.04.2016 in absence of which the RC may be cancelled.

Dealers have also been directed vide Trade Circular 04/2016 dated 04.04.2016 to consult the quarterwise sale-purchase mismatch list for each quarter available in "Dealer Profile" of the Directorate's website and revise the returns, if necessary, within the statutory period (within 6 months from the statutory last date)

Further in WB VAT The Dept. has eased the procedure of registration. Vide Trade Circular 02/2016 dated 15.03.2016 it has extended the ONE-DAY REGISTRATION SERVICE to all applicants whereby registration shall be GRANTED WITHIN NEXT WORKING DAY of furnishing hard copy of application along with necessary documents, fees and security payment details, if everything is found in order. This is a welcome move by The Commercial Taxes Dept. Taking into account the tedious and time taking process of VAT Registration.

Just to reiterate that we remain available over a telecom or e-mail.

Truly Yours

Timir Baran Chatterjee

M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan

FCA, CIDT (ICAI), B. Com

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COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 10th April, 2016 to 16th April, 2016	STATUTE
10th April, 2016	Deposit of WCT of previous month	Chattisgarh VAT Act Madhya Pradesh VAT Act West Bengal VAT Act Nagaland VAT Act Meghalaya VAT Act Mizoram VAT Act Arunachal Pradesh VAT Act
	Issuance of monthly/quarterly WCT certificate	Madhya Pradesh VAT Act (Monthly)
	Deposit of Ptax of previous month	Andhra Pradesh VAT Act Madhya Pradesh VAT Act
14th April, 2016	Deposit of VAT of previous month	Rajasthan VAT Act
	Filing of monthly/quarterly WCT return	Odisha Vat Act (Quarterly)
	Deposit of Entry tax of previous month	Rajasthan VAT Act
15th April, 2016	Deposit of VAT of previous month	Bihar VAT Act Haryana (if Tax> Rs. 1 lac) VAT Act Jharkhand VAT Act Kerala VAT Act Sikkim VAT Act
	Filing of monthly/quarterly VAT return	Kerala VAT Act (Monthly)
	VAT Audit	Maharashtra VAT Act
	Deposit of WCT of previous month	Bihar VAT Act Chandigarh VAT Act Delhi VAT Act Haryana VAT Act Jharkhand VAT Act Punjab VAT Act Rajasthan VAT Act Himachal Pradesh VAT Act
	Filing of monthly/quarterly WCT return	Punjab VAT Act (Monthly) Kerala VAT Act (Quarterly)
	Issuance of monthly/quarterly WCT certificate	Punjab VAT Act (Quarterly) Chandigarh VAT Act (Quarterly) Goa VAT Act (Quarterly) Haryana VAT Act (Monthly) Jharkhand VAT Act (Monthly) Himachal Pradesh VAT Act (Monthly)
	PF deposit of previous month	EPF Act
	Deposit of Ptax of previous month	Sikkim VAT Act Gujarat VAT Act
	Deposit of Entry tax of previous month	Bihar VAT Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: AUDIT

The provisions relating to "Offences and Penalties" covered in CHAPTER XII of the model GST Act can be summarized as follows:

Offences and Penalties

1.A taxable person shall be liable to a penalty of

- Rs 10,000, or
- an amount equivalent to the tax evaded, or
- input tax credit availed or passed on irregularly, or
- the refund claimed fraudulently,

whichever is higher, if he

- supplies goods/ services without issuing invoice or issuing false/invoice
- issues any invoice/bill without supply of goods/services
- collects tax but fails to deposit the same to the appropriate Government within 3 months beyond the due date
- takes/utilizes input tax credit without receipt of goods/services either fully or partially
- obtains refund by fraud
- falsifies financial records/produces fake accounts/furnishes any false information or return and evade tax
- liable to be registered fails to obtain registration;
- obstructs or prevents any officer to discharge his duties
- transports any taxable goods without the specified documents
- fails to keep books of account in accordance with the Act
- fails to furnish information or furnishes false information during any proceedings
- supplies, transports or stores any goods liable to confiscation
- issues any invoice or document using the identification number of another taxable person;
- tampers with or destroys any material evidence;
- disposes off or tampers with detained, seized, or attached goods

2.Any person who

- aids or abets any of the offences specified above
- acquires possession or involved in transporting, removing, depositing, keeping, concealing, supplying, or purchasing any goods which are liable to confiscation
- receives/supply/deals in any manner with any supply of services which are in contravention of the Act
- fails to appear when issued with a summon to give evidence/ document in an enquiry;
- fails to issue invoice /account for an invoice in his books of account;

shall be liable to a penalty which may extend to Rs 25,000.

3.If the taxable person repeatedly (in three returns during any six consecutive tax periods) makes short payment of tax, he shall be liable to a penalty of Rs. 10,000 or 10% of the tax short paid, whichever is higher;

SERVICE TAX

NOTIFICATIONS/CIRCULARS

EXTENSION OF E-PAYMENT DEADLINE AND OF BANKING HOURS

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No 191/01/2016 - Service Tax dated 29.03.2016** has notified that The Reserve Bank of India (vide notification RBI/2015-16/342 dated March 17, 2016) directed all agency banks to keep their designated branches counters conducting government business open for full day on March 30, 2016, and till 8.00 p.m. on March 31, 2016.

However, the assessees could make e-transactions till midnight of March 31, 2016.

COURT DECISIONS

BAFNA MOTOR TRANSPORT CO. (POONA) VERSUS COMMISSIONER OF CENTRAL EXCISE, PUNE -III [CESTAT MUMBAI]

BRIEF: Commission received by a GTA on the trucks hired form outsiders for clients does not fall under the category of 'commission agent', hence not liable to service tax

OUR COMMENTS: In the above case, the assessee is engaged in the business of transportation. He also provides transportation to their clients by hiring truck/vehicles from outsiders on commission basis.

The service tax liability on transportation of goods was discharged by the clients being one of the persons required to discharge the service tax liability under reverse charge.

The Revenue contended that hiring vehicles for the clients under a commission falls under "Commission agent" services , therefore, the amount received as commission for from outsiders is liable for tax under business auxiliary services. A show cause notice was issued for demand of the tax with interest and penalties.

The Hon'ble CESTAT noted that the assessee here is functioning as a motor transport company, therefore, it needs to be considered as a 'Goods Transport Agency'. The assessee issues goods consignment notes in respect of the transportation of the goods which clearly indicates consignor and consignee name and that the service tax liability needs to be discharged by either party. In the given case, the client discharges the service tax liability under reverse charge.

The activity taxed under a particular head cannot be considered again under 'business auxiliary service'.

Here by hiring vehicles from outsiders, the assessee is not rendering any different service but ultimately the same service of transportation. He is not providing any service in relation to business auxiliary service.

Therefore, no service tax can be demanded on the commission received by assessee on the trucks hired from outsiders.

[Decided in favour of assessee]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENT IN THE CENVAT CREDIT RULES, 2004

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 23/2016-Central Excise (N.T.) dated 01.04.2016 has** amended **Cenvat Credit Rules, 2004**, namely :-

(a) in rule 6, in sub-rule (3) for clause (i), the following clause shall be substituted

"(i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period; or" ;

(b) in rule 7B, in sub-rule (1) the words "invoices, issued in terms of the provisions of the Central Excise Rules, 2002," shall be substituted by the words "documents specified under rule 9,".

CORRIGENDUM - NOTIFICATION NO.PAGE 96 16/2016 CENTRAL EXCISE, DATED THE 1ST MARCH, 2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India has issued Corrigendum - Notification No. 16/2016 Central Excise, dated the 1st March, 2016 and made amendments in Table – 1 and Tables – 2 on pages 96 and 97 respectively.

The Corrigendum – Notification is self explanatory. The readers may refer the same.

COURT DECISIONS

CCE, INDORE VERSUS M/S. RUCHI SOYA INDUSTRIES LTD. [CESTAT NEW DELHI]

BRIEF: There is no need to maintain separate records for returned goods if the appropriate duty is paid when the returned goods are cleared.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of soya/palm/palmolein refined oil and vanaspati. He is availing cenvat credit of duty paid on various inputs but is not maintaining separate accounts of receipt and utilization of inputs used in dutiable and exempted final products.

The revenue noted that there is no proper accounting of goods received for reprocessing and cleared thereafter in the RG-I register. They raised a demand on the ground the quantity of refined oil obtained after reprocessing is not entered in the RG-I register

The Hon'ble CETSTAT noted that one to one correlation of returned goods as per the entries in the RG-I is not possible in a unit having huge turnover.

Further, the assessee has entered all the returned goods in the RG-I and taken back the credit of excise duty paid and paid appropriate duty when the returned goods were cleared. There is no need to maintain separate records for returned goods.

Accordingly, the demand is not sustainable.

[Decided in favor of assessee]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CUSTOMS

NOTIFICATIONS/CIRCULARS

CUT/POLISHED DIAMONDS IMPORTED FOR TESTING/CERTIFICATION BY HRD DIAMOND INSTITUTE PRIVATE LIMITED, MUMBAI, MAHARASHTRA. EXEMPTED FROM CUSTOM DUTY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 25/2016-Customs dated 30.03.2016 has** exempted cut/polished diamonds imported by HRD Diamond Institute Private Limited, Mumbai, Maharashtra from custom duty.

CUSTOM DUTY ON ARTICLES IMPORTED INTO INDIA BY A PASSENGER OR A MEMBER OF A CREW AS BAGGAGE

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 26/2016-Customs dated 31.03.2016 has** exempted the following articles (falling under Heading 9803 of the First Schedule to the Customs Tariff Act, 1975) when imported into India by a passenger or a member of a crew as baggage, from so much of the custom duty specified in First Schedule in excess of the amount calculated @35% ad valorem:

- Any article the value of which exceeds the duty free allowance admissible to such passenger or member under the Baggage Rules, 2016.

- On the unaccompanied baggage.

This notification shall not apply to –

(i) fire arms;

(ii) cartridges of fire arms exceeding 50;

(iii) cigarettes, cigars or tobacco in excess of the quantity prescribed for importation free of duty under the relevant baggage rules;

(iv) goods imported through a courier service.

CUSTOM DUTY ON SPECIFIED GOODS IMPORTED BY PERSONS RETURNING TO INDIA AFTER A PERIOD OF NOT LESS THAN 365 DAYS OF STAY ABROAD DURING PREVIOUS 2 YEARS OR UNDER BONA FIDE TRANSFER OF RESIDENCE TO INDIA

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 27/2016-Customs dated 31.03.2016 has** exempted specified goods falling under Heading No. 9803 of the First Schedule to the Customs Tariff Act, 1975, when imported by-

(a) any person holding a valid passport issued under the Passports Act, 1967 and returning to India after having stayed abroad for at least 365 days during the two years immediately preceding the date of arrival in India, or

(b) any person on a bona fide transfer of residence to India as part of his bona fide baggage,-

from the whole of the custom duty in respect of goods specified TABLE- I of the Notification and

from duty in excess of the amount calculated @15% ad valorem in respect of goods specified in TABLE-II of the Notification.

The readers may refer the aforesaid notification.

DEEPER TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS IMPORTED UNDER THE INDIA-JAPAN COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT (IJCEPA)

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 28/2016-Customs dated 31.03.2016 has** amended Notification, No.69/2011-Customs, dated the 29thJuly, 2011, and provided deeper tariff concessions in respect of specified goods imported under the India-Japan Comprehensive Economic Partnership Agreement (IJCEPA).

The readers may refer the aforesaid notification.

INCOME TAX

NOTIFICATIONS & CIRCULARS

INVESTMENT IN "STOCK CERTIFICATE": FORMS OR MODES OF INVESTMENT OR DEPOSITS BY A CHARITABLE OR RELIGIOUS TRUST OR INSTITUTION UNDER SECTION 17C

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 21/2016 dated 23.03.2016 has** inserted the following investment as an additional of investment by a charitable or religious trust or institution under section 17c

"Investment in "Stock Certificate" as defined in clause (c) of paragraph 2 of the Sovereign Gold Bonds Scheme, 2015"

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION, MAHARASHTRA STATE BOARD OF TECHNICAL EDUCATION: SPECIFIED UNDER SECTION 10(46) OF THE INCOME-TAX ACT, 1961

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India

vide Notification No. 22/2016 dated 29.03.2016 has notified Andhra Pradesh Electricity Regulatory Commission, a Commission constituted under the Andhra Pradesh Electricity Reform Act, 1998 (Government of Andhra Pradesh Act No. 30 of 1998), in respect of the following specified income for the purpose of Section 10(46):

(a) Licence fee received under the Electricity Act, 2003;

(b) Grants-in-Aid received from Government;

(c) Interest earned on investment or deposit in nationalised bank or financial institutions.

vide Notification No. 23/2016 dated 29.03.2016 has notified the Maharashtra State Board of Technical Education, a Board constituted under the Maharashtra State Board of Technical Education Act, 1997, of the Government of Maharashtra, in respect of the following specified income for the purpose of Section 10(46):

- fees, fines and penalties;
- receipts from Printed Educational Material, Scrap or Waste paper; from other Government Bodies;
- interest income from surplus funds
- rent received from let out of properties;
- royalty or License fees for providing technical knowledge and infrastructure;
- dividend earned from Maharashtra Knowledge Corporation Ltd;
- capital gains, if any, from disposal of assets as per Government financial guideline and rules of Government of Maharashtra.

INCOME-TAX (9TH AMENDMENT) RULES, 2016: ITR FORMS MADE AVAILABLE

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 24/2016 dated 30.03.2016 has** made available the ITR forms: Sahaj (ITR-1), ITR-2, ITR-2A, ITR-3, Sugam (ITR-4S), ITR-4, ITR-5, ITR-6, ITR-7, ITR-V.

WEST BENGAL

EXTENSION OF THE ONE-DAY REGISTRATION SERVICE

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Trade Circular 02/2016 dated 15.03.2016** has extended the **ONE-DAY REGISTRATION SERVICE** to all applicants and decided that for new registration applications, the registration shall be **GRANTED WITHIN NEXT WORKING DAY** of furnishing hard copy of application along with necessary documents, fees and security payment details, if everything is found in order.

The dealer shall have to follow the following steps:-

1. Apply online for VAT Registration along with

A. Uploading of the following scanned documents:-

a. **TRADE LICENCE(s)**

b. **PAN of FIRM** c. **PAN of OWNER**

d. **RESIDENTIAL**

e. **SECURITY PAID CHALLAN**

B. Uploading of security payment (GRN) details.

2. Submit the signed hard copies of acknowledgement, application form, all supporting documents as notified in the website including scanned documents of 1A, application fees and security paid challan before the registering authority.

BY END OF JUNE, 2016 ALL EXISTING AND ACTIVE REGISTERED DEALERS SHALL HAVE THEIR PAN VERIFIED AND MATCHED AS PER INCOME TAX DEPARTMENT'S DATABASE

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Trade Circular 03/2016 dated 31.03.2016 has** given the last opportunity to the dealers to furnish the correct PAN information online by 30.04.2016 i.e the last day for filing of return for 2015-16 (last quarter of 2015-16). Any dealer who does not furnish the relevant information within that date shall be presumed to have not been actively carrying on business.

Further, appropriate proceedings for cancellation of their Registration Certificates shall be initiated by the concerned Assessing Authorities and such proceedings should be completed within 2 months thereafter.

This way by end of June, 2016 all existing and active registered dealers shall have their PAN verified and matched as per Income Tax Department's database.

DEALERS DIRECTED TO RECONCILE QUARTERWISE SALE-PURCHASE MISMATCH LIST AND FILE REVISED RETURN, IF REQUIRED

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Trade Circular 04/2016 dated 04.04.2016** has observed that sale purchase mismatch is occurring in a good number resulting in consequential harassment of the dealers as well the Directorate.

As per section 22 (4A) of the West Bengal Value Added Tax Act, 2003, a purchaser can claim ITC only to such extent that is admitted by the seller. Legal notices are to be sent to such purchasers who have claimed ITC more than corresponding tax on sale declared by the sellers.

The dealers therefore, have been directed to consult the quarterwise sale-purchase mismatch list for each quarter available in "Dealer Profile" of the Directorate's website and revise the returns, if necessary, within the statutory period (within 6 months from the statutory last date)

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