64TH ISSUE

17 APR 2016 - 23 APR 2016

TAX CONNECT

GST

SERVICE TAX | CENTRAL EXCISE

CUSTOMS | INCOME TAX

STATE TAXES

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EDITORIAL

Friends

Time and again we have made representations regarding the issue of Show Cause Notices on frivolous grounds and thereafter mindless confirmation of demands in Service Tax at the Commissioner Appeals Stage. Time and again we have also brought out before senior Govt. Officers the fact that the first stage of justice in Service Tax is actually The CESTAT. We have also asked to impose certain accountability on officers especially regarding demands which are frivolous in nature. However, all these years Govt. Officers have tried to brush aside the questions on some pretext or the other. However for the first time we have atleast received some sort of positive response from a Govt. Official on this question.

Recently The Hon'ble Revenue Secretary, Shri Hasmukh Adhia visited Kolkata and he very categorically has assured that the Govt. has taken notice of this fact and has changed their internal reporting format whereby several fields have been added to disclose the fate of the demands in Higher Forums. Further accountability is now also being fixed on officers where the demands confirmed are frequently dropped at higher forums. The Hon'ble Chief Commissioner Mr Panda has also reaffirmed that during the last six months he has also tried to address this issue. While this assurance coming directly from the Horse's mouth is certainly a relief for Trade & Industry, yet on a realistic front we still have to wait and see the action on ground.

In Service Tax, three important Notifications have been issued by the CBEC in w.r.t. the services provided by the Govt.

Vide N No 22/2016, certain services provided by Government or a local authority have been exempted from service tax, viz any function entrusted to a municipality, issuance of passport, visa, driving licence, birth certificate or death certificate, where the gross amount charged is less than Rs.5000/-, registration, etc.

Vide N No. 23/2016, the CBEC has laid down that interest paid by a business entity for delayed payment for services provided by Government or a local authority is includible in the taxable value.

Vide N No 24/2016, the CBEC has amended Rule 7 of Point of Taxation Rules and laid down that in case of services provided by the Government or local authority to any business entity, the point of taxation shall be earlier of the date when any payment becomes due or payment is made. **Businesses may please note the same as this would affect all cases of payment by reverse charge in case of services received from the government.**

In Central Excise, the CBEC has also vide Circular No. 1023/11/2016-CX, reviewed the past practices and issue revised consolidated guidelines to provide a clear procedure for the field officers to deal with the CERA / CRA objections

In Income Tax, the CBDT vide Notification No. 5/2016 dated 06.04.2016 has laid down lays down the procedures, data structure and standard of Electronic Verification Code (EVC).

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

Truly Yours

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COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 17th April, 2016 to 23rd April, 2016	STATUTE
20th April, 2016	Deposit of VAT of previous month	Karnataka VAT Act, Tamil Nadu VAT Act, Chandigarh VAT Act Punjab VAT Act (if payment by cheque) Uttar Pradesh VAT Act, Uttarakhand VAT Act, Manipur VAT Act, Goa VAT Act (if Tax> or = Rs. 1 lac)
	Filing of monthly/quarterly VAT return	Karnataka VAT Act (Monthly) Tamil Nadu VAT Act(Monthly) Uttar Pradesh VAT Act (Monthly) Uttarakhand VAT Act (Monthly) Punjab VAT Act (Monthly, if payment is through cheque) Manipur VAT Act (Monthly, if PY turnover is >Rs. 40 lacs)
	Deposit of P Tax of previous month	Karnataka VAT Act, West Bengal VAT Act
	Deposit of Entry tax of previous month	Andhra Pradesh VAT Act, Karnataka VAT Act Uttar Pradesh VAT Act, Uttarakhand VAT Act
	Deposit of WCT of previous month	Andhra Pradesh VAT Act, Karnataka VAT Act Tamil Nadu VAT Act, Uttar Pradesh VAT Act Uttarakhand VAT Act, Goa VAT Act (Tax >/= Rs. 1 lac)
	Filing of monthly/quarterly WCT return	Karnataka VAT Act (Monthly) Uttarakhand Vat Act (Quarterly)
	Issuance of WCT certificate	Uttar Pradesh VAT Act , Manipur VAT Act
21st April, 2016	Deposit of VAT of previous month	Delhi VAT Act, Maharashtra VAT Act, Odisha VAT Act, West Bengal VAT Act Assam VAT Act, Nagaland VAT Act Meghalaya VAT Act
	Filing of monthly/quarterly VAT return	Assam VAT Act (Monthly) Maharashtra VAT Act (Monthly) Odisha VAT Act (Monthly) Meghalaya VAT Act (Monthly)
	Deposit of WCT of previous month	Maharashtra VAT Act
	Deposit of Entry tax of previous month	Odisha VAT Act, West Bengal VAT Act
	Deposit of Ptax of previous month	Odisha VAT Act
	ESI deposit of previous month	ESI Act
22nd April, 2016	Deposit of VAT of previous month	Gujarat VAT Act
	Deposit of WCT of previous month	Gujarat VAT Act
	Issuance of WCT certificate	Delhi VAT Act
	Deposit of Entry tax of previous month	Gujarat VAT Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: DETENTION, CONFISCATION AND PENALTY

The provisions relating to "Detention, Confiscation and Penalty" covered in CHAPTER XII of the model GST Act can be summarized as follows:

Detention, Confiscation and Penalty

Detention of goods and levy of penalty

Where any person transports or stores any goods in transit in violation of the Act or stores or supplies goods without accounting in books, such goods can be detained by the proper officer and be released only after payment of applicable tax, interest and penalty or upon furnishing a security, after giving a notice to show cause and giving the person a reasonable opportunity of being heard.

Confiscation of goods and levy of penalty

- If any person –

  (i) supplies any goods leading to evasion of tax; or

  (ii) does not account for any taxable goods

  (iii) supplies taxable goods without taking registration; or

  (iv) contravenes any of the provisions of this Act with intention of tax evasion

  then, all such goods shall be liable to confiscation and penalty under section 56 of the Act, after giving a notice to show cause and giving the person a reasonable opportunity of being heard.

- The owner or person-in-charge shall be given option to pay fine (not exceeding the market price of the goods less the tax chargeable) in lieu of confiscation.

- The title of the confiscated goods shall vest in the appropriate Government.

- The Officer of Police, on the requisition of the proper officer, shall assist him in taking and holding possession of the confiscated goods.

Confiscation of conveyances

Any conveyance used for carriage of taxable goods without the cover of documents shall be liable to confiscation, unless it is proved that it was so used without the knowledge of the owner himself and the person in charge of the conveyance

Confiscation or penalty not to interfere with other punishments

Any confiscation made or penalty imposed shall not prevent the infliction of any other punishment under any other provision or law.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

SERVICE TAX

NOTIFICATIONS/CIRCULARS

EXEMPTION TO CERTAIN SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No 22/2016 - Service Tax dated 13.04.2016** has exempted the following services provided by Government or a local authority from service tax:

Services:

- Activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.
- provided to another Government or local authority:
- issuance of passport, visa, driving licence, birth certificate or death certificate;
- where the gross amount charged for such services does not exceed Rs. 5000/- :
- by way of tolerating non-performance of a contract for which fines or liquidated damages is payable
- registration required under any law for the time being in force;
- testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large,
- assignment of right to use natural resources to an individual farmer for the purposes of agriculture;
- any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution;
- assignment of right to use any natural resource where such right was assigned before the 1st April, 2016:
- allowing a business entity to operate as a telecom service provider or use radiofrequency spectrum during the financial year 2015-16 on payment of licence fee or spectrum user charges
- deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges (MOT)."

INTEREST PAID BY A BUSINESS ENTITY FOR DELAYED PAYMENT FOR SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY IS INCLUDIBLE IN THE TAXABLE VALUE.

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No 23/2016 - Service Tax dated 13.04.2016** has **amended rule 6 sub-rule (2), of Service Tax (Determination of Value) Rules, 2006 and** provided that any service provided by Government or a local authority to a business entity where payment for such service is allowed to be deferred on payment of interest or any other consideration, the taxable value of the service shall include such interest.

AMENDMENT IN RULE 7 OF POINT OF TAXATION RULES, 2011 FOR SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No 24/2016 - Service Tax dated 13.04.2016** has **amended Rule 7 in Point of Taxation Rules, 2011 and** provided that in case of services provided by the Government or local authority to any business entity, the point of taxation shall be the earlier of the dates on which, -

(a) any payment, part or full, in respect of such service becomes due, as specified in the invoice, bill, challan or any other document issued by the Government or local authority demanding such payment; or

(b) payment for such services is made.

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENT IN RULE 4(7) & RULE 6 OF CENVAT CREDIT RULES, 2004

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 24/2016-Central Excise (N.T.) dated 13.04.2016 has** amended **Cenvat Credit Rules, 2004** and provided that:

Cenvat Credit of Service Tax paid upfront or in instalments for assignment of the right to use any natural resource by the Government, local authority or any other person, shall be spread evenly over a period of three years

Further, if such right is reassigned to another person against consideration, the Cenvat credit (not exceeding the service tax payable on the consideration), shall be allowed in the same financial year.

REVISED CONSOLIDATED GUIDELINES TO DEAL WITH THE CERA / CRA OBJECTIONS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 1023/11/2016-CX dated 08.04.2016 has** reviewed the past practices and issue revised consolidated guidelines to provide a clear procedure for the field officers to deal with the CERA / CRA objections.

The review was also required to improve the ease of doing business and bring certainty regarding tax liability of an assessee.

Accordingly, all past circulars and instructions on the subject are rescinded and revised procedure is prescribed for dealing with audit objections raised by CERA / CRA.

The readers may refer the guidelines in the aforesaid Circular.

CLARIFICATION REGARDING RE-REFINED USED OR WASTE-OIL

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 1024/12/2016-CX dated 11.04.2016 has issued a** clarification regarding re-refined used or waste-oil.

Various units are engaged in re-refining of waste oil or used lubricating oil collected from the transformers, service stations of vehicles etc. In such units, waste or used oil undergoes various process and the oil obtained from such waste is packed and sold as base oil, lubricating oil and transformer oil etc. to the consumers for further use.

As per the definition of "Waste oil" in chapter 27 of First Schedule of Central Excise tariff Act, 1985 it has been clarified that used lubricating oil collected from service stations is not fit for use as primary products, therefore it shall be classified as waste, however, processed waste oil, which becomes fit for use as lubricating oil shall qualify as primary product classified as lubricating oil.

Further, waste oil after processing may become lubricating oil but this process would amount to manufacture and Central Excise duty would be leviable only when one of the process listed below is carried out on lubricating oil or lubricating preparations,

(i) labelling or re-labelling of containers,

(ii) re-packing from bulk pack to retail packs,

(iii) adoption of any other treatment to render the product marketable to the consumers.

A refining unit processing waste oil or used oil shall therefore decide the excisibility of their output in light of the above discussion.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CUSTOMS

NOTIFICATIONS/CIRCULARS

KAKRAWAH APPOINTED AS LAND CUSTOMS STATION FOR CLEARANCE OF BAGGAGE, PASSENGER VEHICLES AND TOURIST VEHICLES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 42/2016-Customs (N.T.) dated 29.03.2016** has appointed **Kakrawah,** Siddharthnagar District, Uttar Pradesh as land customs station for the purpose of clearance of baggage, passenger vehicles and tourist vehicles.

AMENDMENT IN RULE 3, 4, 6, 7 AND APPENDIX II OF BAGGAGE RULES, 2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 43/2016-Customs (N.T.) dated 31.03.2016** has amended rule 3, 4, 6, 7 and Appendix-II of Baggage Rules, 2016.

The notification is self-explanatory. The readers may refer the notification.

FIXATION OF T V OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 44/2016-Customs (N.T.) dated 31.03.2016 and Notification No. 54/2016-Customs (N.T.) dated 13.04.2016** has amended **Notification No.36/2001-Customs, dated 03.08.2001** and fixed tariff value of edible oil, brass, poppy seed, areca nut, gold and silver by substituting tables, TABLE – 1, TABLE – 2 and TABLE – 3.

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 48/2016-Customs (N.T.) dated 07.04.2016 & in supersession of Notification No. 41/2016-Customs (N.T.) dated 17.03.2015** has **revised the exchange rate of foreign currencies** specified in col.(2) of each of **Schedule I** and **Schedule II** annexed hereto, into Indian currency or vice versa, w.e.f. **08.04.2016** to be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	51.60	49.70
2.	Bahrain Dinar	182.65	171.10
3.	Canadian Dollar	51.80	50.15
4.	Danish Kroner	10.40	10.00
5.	EURO	77.25	74.70
6.	Hong Kong Dollar	8.70	8.45
7.	Kuwait Dinar	228.30	213.70
8.	New Zealand Dollar	46.40	44.60
9.	Norwegian Kroner	8.15	7.85
10.	Pound Sterling	95.65	92.60
11.	Singapore Dollar	50.10	48.55
12.	South African Rand (w.e.f 08.01.2016) South African Rand (w.e.f 13.01.2016)	4.55	4.25
13.	Saudi Arabian Riyal	18.35	17.20
14.	Swedish Kroner	8.30	8.05
15.	Swiss Franc	70.85	68.55
16.	UAE Dirham	18.75	17.55
17.	US Dollar	67.50	65.80
18.	Chinese Yuan	10.45	10.15

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	62.05	60.05
2.	Kenya Shilling	67.95	63

INCOME TAX

NOTIFICATIONS & CIRCULARS

WEST BENGAL POLLUTION CONTROL BOARD, "SIKKIM STATE ELECTRICITY REGULATORY COMMISSION: 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. 25/2016 dated 04.04.2016 has notified West Bengal Pollution Control Board, a body constituted by the Government of West Bengal, in respect of the following specified income for the purpose of Section 10(46):

- fees for consent, analysis on air quality and water quality or noise level survey, authorisation fees, vehicle emission monitoring test, fees received under the Right to Information Act, 2005 (22 of 2005) and appeal fees;

- fees for processing by State Environmental Impact Assessment Authority, for training by the Environmental Training Institute involving no profit element
- fees received under the Right to Information Act, 2005 (22 of 2005) and appeal fees;

- cess re-imbursement and cess appeal fees;
- interest on deposits;
- interest on loans and advances given to staff of the Board;
- pollution cost or forfeiture of bank guarantee due to non-compliance; and
- miscellaneous income including sale of old or scrap items, etc

vide Notification No. 26/2016 dated 04.04.2016 has notified the "Sikkim State Electricity Regulatory Commission constituted under the Electricity Act, 2003 (39 of 2003), in respect of the following specified income for the purpose of Section 10(46):

- grants and aid received from Government :
- amount received in the form of the Petition fees;
- amount received in the form of the Licence fees; and
- interest earned on investment or deposit.

PROCEDURE FOR REGISTRATION AND SUBMISSION OF STATEMENT AS PER CLAUSE (K) OF SUB SECTION (1) OF SECTION 285BA

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 4/2016 dated 06.04.2016** has laid down the procedure for registration and submission of statement as per clause (k) of sub section (1) of section 285BA of Income-tax Act, 1961 read with Sub rule (7) of Rule 114G of Income-tax Rules, 1962.

The notification is self-explanatory. The readers may refer the notification.

PROCEDURES, DATA STRUCTURE AND STANDARD OF ELECTRONIC VERIFICATION CODE (EVC)

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 5/2016 dated 06.04.2016** has laid down lays down the procedures, data structure and standard of Electronic Verification Code (EVC) as under:

- The EVC shall verify the identity of the person furnishing the form ('Verifier').

- EVC shall be generated on the e-Filing website https://incometaxindiaefiling.gov.in.

- Verifier shall be the person who is authorized to verify the return of income under section 140 of the Act.

- If the Verifier represents an entity (i.e. HUF/ Firm/ AOP etc.) then it shall be registered in the e-Filing website as a Principal Contact.

- The EVC would be unique for an Assessee-PAN or Assessee-TAN.

- One EVC can be used to validate one form of the assessee irrespective of the assessment year.

- The EVC will be valid for 72 hours or as otherwise specified.

- The Verifier may use more than one mode to obtain EVC and can generate the EVC multiple times.

- The mode of generation of EVC, Validation of EVC and Data Structure of EVC shall be same as specified by the Notification No. 2/2015 dated 13.07.2015 and the Notification No. 1/2016 dated 19.01.2016.

GUJARAT

TAX RELIEF ON GOODS UNDER SECTION 5(2)

OUR COMMENTS: The Finance Department, Government of Gujarat vide **Notification No. (GHN- 16)VAT-2016-S.5 (2) (48)-TH dated 01.04.2016** provided tax relief on goods u/s 5(2) as follows:

Exemption from whole of tax on purchase of: Sanitary napkins and adult diapers, Bamboo, whether whole or split and articles made of bamboo (except furniture), Pedal rickshaws and cycle rickshaws, Mosquito net, Frozen semen

Exemption to the extent to which the tax exceeds 5 paise including the additional tax @ 1 paisa in the rupee on purchase of: Baby diapers, Ceramic products

JHARKHAND

EXEMPTION TO CANTEEN STORES DEFENCE REGIMENTAL UNITS

OUR COMMENTS: The Department of Commercial Taxes, Government of Jharkhand vide **Notification S.O. 05 dated 30.03.2016** has exempted the Canteen Stores Defence Regimental Units for the bonafide use of all Defence Personnel including ex-servicemen of Jharkhand State from the levy of tax payable in the following manner:

"Sales of any goods by or to the Canteen Stores Department or the Defence Regimental Units, or by purchases by the said canteen units and regimental units, attached to the Military units of the Ministry of Defence in the said of Jharkhand as certified by an officer not below the rank of a Commanding Officer and required for bonafide use of the members of the all Defence personnel including ex-servicemen of Jharkhand State."

MADHYA PRADESH

EXEMPTION TO DE-OILED CAKE INCLUDING ALL KINDS OF SOYA MEAL, COTTON SEED OIL CAKE, MUSTARD OIL CAKE AND MAKKA KHALI IN COURSE OF INTER-STATE SALE

OUR COMMENTS: The Department of Commercial Taxes, Government of Madhya Pradesh vide **Notification No. F-A-3-16-2016-1-V-(19) dated 31.03.2016** has directed that w.e.f. 01.01.2016, no tax shall be payable by any dealer having a place of business in the State of Madhya Pradesh in respect of the sales made by him in the course of inter-State trade or commerce of De-oiled cake including all kinds of soya meal, cotton seed oil cake, mustard oil cake and Makka khali from such place of business. The exemption shall be subject to the fulfilment of the requirements laid down under sub-section (4) of Section 8 of the said Act.

UTTAR PRADESH

TRANSPORT MEMO FOR CEMENT DISCONTINUED

OUR COMMENTS: The Sansthagat Vitta, Kar Evam Nibandhan Anubhag-2, Uttar Pradesh Shashan vide **Notification No.- KA.NI.-2-391/XI-9(13)/2010-U.P.Act.-5-2008-Order-(155)-2016 dated 04.04.2016** has amended **Notification No. KA. NI.-2-1439/XI-9(13)/2010-U.P.Act-5-2008-Order-(64)-2010 dated 03.11.2010** and discontinued transport memo on cement**.**

ADVANCE TAX RATE ON CEMENT INCREASED TO 4%

OUR COMMENTS: The Sansthagat Vitta, Kar Evam Nibandhan Anubhag-2, Uttar Pradesh Shashan vide **Notification No.- KA.NI.-2-485/XI-9(13)/2010-U.P.Act.-5-2008-Order-(156)-2016 dated 04.04.2016** has amended **Notification No. KA.NI.-2-419/XI-9(1)/08-U.P.Act-2008-Order-(69)-2011 dated 31.03.2011** and increased the advance tax rate on cement to 4%.