68TH ISSUE

15 MAY 2016 - 21 MAY 2016

TAX CONNECT

GST

SERVICE TAX | CENTRAL EXCISE

CUSTOMS | INCOME TAX

STATE TAXES

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EDITORIAL

Friends

Effective from 1st June, 2016, to claim income tax deductions employees need to submit new Form 12BB to the employer. Hence, if you are an employee, at the beginning of every financial year (or) while joining you have to submit 'Income Tax Declaration' to your employer.

Till date there has been no standard reporting format or template available for furnishing the details of investment or expenditure proofs. The Central Board of Direct Taxes CBDT has now released New Form No. 12BB. This is going to be the new standard form for salaried tax payers to claim tax deduction on LTA (Leave Travel Allowance) / LTC (Leave Travel Concession), HRA (House Rent Allowance), Interest payable on Home Loan (Section 24) and All Tax Deductions under Chapter VI-A which relates to allowable deductions under various sections including Section 80C, Section 80CCC Section 80CCD, Section 80D, etc.

Employers may also note the same.

Further CBDT has declared August 31 as deadline for the taxpayers whose ITRs for six assessment years between 2009-10 and 2014-15 are pending for processing and issuance of refunds due to issues of non-filing of ITR-V acknowledgement form at its Bengaluru-based collection centre. **Income Tax Assesses should take benefit of the same.**

In Service Tax, there is always an issue on the fact as to If the gross receipt of service charges is less than the gross service charges on which service tax has been paid, then is the excess paid service tax refundable to the assessee. In this regard a somewhat favorable judgement has come in favour of the assessee. One might refer to **M/s. Abhijeet Infrastructure Limited Versus Commissioner of Service Tax Cell, Central Excise Head Quarters, Nagpur [CESTAT MUMBAI].** The judgement has been detailed in this bulletin.

In Central Excise, a much needed clarification has been issued by The CBEC, vide Circular No. 1029/17/2016-CX dated 10.05.2016 where it has been clarified that the clearance of segregated foreign materials namely iron, steel, rubber, plastic, dust etc. from honey grade brass scrap before feeding in the furnace cannot be treated as removal of "inputs as such" under Rule 3 (5) of CENVAT Credit Rules, 2004. The same shall be cleared on payment of Central Excise duty on transaction value as per its appropriate classification and rate of duty determined on merits. This clarification may be used in other Industries also.

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

Truly Yours

Timir Baran Chatterjee

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COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 15th May, 2016 to 21st May, 2016	STATUTE
15th May, 2016	Deposit of VAT of previous month	Bihar VAT Act, Jharkhand VAT Act, Kerala VAT Act, Haryana (if Tax> Rs. 1 lac) VAT Act, Sikkim VAT Act
	Filing of monthly/quarterly VAT return	Kerala VAT Act (Monthly)
	Deposit of WCT of previous month	Bihar VAT Act, Jharkhand VAT Act, Delhi VAT Act Chandigarh VAT Act, Punjab VAT Act, Haryana VAT Act, Rajasthan VAT Act, Himachal Pradesh VAT Act
	Filing of monthly/quarterly WCT return	Punjab VAT Act (Monthly)
	Issuance of monthly/quarterly WCT certificate	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 Commercial Tax Act, Gujarat Commercial Tax Act
	Filing of TDS/TCS return for 4th quarter	Income Tax Act
	Deposit of Entry tax of previous month	Bihar Entry Tax Act
20th May, 2016	Deposit of VAT of previous month	Karnataka VAT Act, Tamil Nadu VAT Act, Chandigarh VAT Act, Punjab VAT Act (if pmt by chq) 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) Andhra Pradesh 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 Commercial Tax Act, West Bengal Commercial Tax Act
	Deposit of Entry tax of previous month	Andhra Pradesh Entry Tax Act, Karnataka Entry Tax VAT Act Uttar Pradesh Entry Tax Act, Uttarakhand Entry Tax 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)
	Issuance of WCT certificate	Uttar Pradesh VAT Act , Manipur VAT Act
21st May, 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 Entry Tax Act, West Bengal Entry Tax Act
	Deposit of Ptax of previous month	Odisha Commercial Tax Act
	ESI deposit of previous month	ESI Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: APPEALS AND REVIEW

The provisions relating to "Apppeals and Review" covered in CHAPTER XV of the model GST Act can be summarized as follows:

First Appeals to First Appellate Authority

- Any person aggrieved by any decision or order passed by an adjudicating authority may appeal to the First Appellate Authority.
- The Commissioner of GST may examine the record of any proceeding in which an adjudicating authority has passed any order and direct to apply to the first appellate authority.
- Such application shall be dealt with by the first appellate authority as if it were an appeal made against the order of the GST Officer.
- The appeal shall be filed within 3 months (may be extended by 1 month) from the date of communication of the order to the Commissioner of GST, or, as the case may be, the other party preferring the appeal.
- The appellant shall deposit an amount of 10% percent of the disputed amount.
- A higher amount may be ordered if the case is considered to be a "serious case"(if the case involves disputed tax liability of Rs. 25 crores or more and it is considered that the department has a very good case against the taxpayer).
- The First Appellate Authority

  - shall give an opportunity to the appellant to be heard and may grant time to a party, from time to time and adjourn the hearing (not more than three times)
  - may allow new ground of appeal during the hearing provided the ground is not willful or unreasonable.
  - may pass such order, as he thinks just and proper, confirming, modifying the order or refer the case back to the adjudicating authority for a fresh adjudication after taking additional evidence, if necessary.
  - may enhance penalty or fine or confiscate goods of greater value or reduce the amount of refund
  - may require the appellant to pay any tax which has not been levied or paid or has been short-levied or short-paid or erroneously refunded
  - shall to the extent possible hear and decide every appeal within a period of 1 year from the date on which it is filed.
  - shall communicate the order passed by him to the appellant and to the adjudicating authority.

A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST .

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

SERVICE TAX

CASE LAWS

M/S. ABHIJEET INFRASTRUCTURE LIMITED VERSUS COMMISSIONER OF SERVICE TAX CELL, CENTRAL EXCISE HEAD QUARTERS, NAGPUR [CESTAT MUMBAI]

BRIEF: If the gross receipt of service charges is less than the gross service charges on which service tax has been paid then the excess paid service tax is prima facie refundable to the assessee. If the Revenue has any doubts it should call the assessee in person and give an opportunity to explain.

OUR COMMENTS: In the above case, the assessee is a service tax assessee and is paying service tax under various taxable services such as Management Consultant Service, Consulting Engineer Service, Maintenance & Repair Service, Business Auxiliary Service, Business Support Service etc. They filed a refund claim for excess tax paid under Management & Repair Services.

The Revenue rejected the claim.

The Hon'ble CESTAT held that if it is established that the gross receipt of service charges is lesser than the gross service charges on which service tax was paid then the excess paid service tax is prima facie refundable to the appellant. If the lower authority has any doubt about the accounting, calculation, the right course of action is that he should call the appellant in person and give them the opportunity to explain.

Accordingly, the matter was remanded back to the original adjudicating authority with a direction to verify the claim properly with the books of account and details submitted by the assessee. If the adjudicating authority finds that there is an excess payment of service tax, the same should be refunded in accordance with law.

[Decided in favour of the assessee]

THE COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX VERSUS M/S. KARAN AGENCIES, CAMP, M/S THE KOLHAPUR SUGAR MILLS LTD [BOMBAY HIGH COURT]

BRIEF: The conducting of business, its management and administration in the name of owner and receiving conducting charges will not amount to providing of services, hence, not liable to service tax.

OUR COMMENTS: In the above case, the assessee entered into a contract for manufacturing and sale of liquor in the name of the party. Under the agreement, the assessee agreed to pay a fixed amount towards use of infrastructure for manufacture of liquor. And, all profits and losses in respect of the manufacturing and sale of the products in the distillery division are on account of the assessee.

The Revenue contends that managing or conducting of such business is providing taxable service under the category of 'Business Support Service' classifiable under section 65(104C) of the Finance Act, 1994.

The Hon'ble High Court held that the business support service covers only the services of supporting nature to main activity. Here, the main activity itself i.e. the activities of manufacturing and sale of liquor are conducted by the assessee.

Therefore, the assessee is responsible for any profits being generated or losses sustained. The transaction will not fall within the meaning of support services for business or commerce.

Also, there was no evidence on record to show that the assessee had received any amount from the party for providing any service in relation to the business.

[Decided against Revenue]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENTS WITH REGARD TO EFFECTIVE RATE OF DUTY IN RESPECT TO ITEMS LIKE POPULATED PRINTED CIRCUIT BOARD, PARTS, TESTING EQUIPMENT, TOOLS AND TOOL-KITS FOR MAINTENANCE, REPAIR, AND OVERHAULING (MRO) ETC.

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 22/2016-Central Excise dated 05.05.2016** has further amended **Notification No. 12/2012-Central Excise dated 17.03.2012** and has modified effective rate of duty of the items like Populated printed circuit board, Parts, testing equipment, tools and tool-kits for maintenance, repair, and overhauling (MRO) etc.

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

ROUTERS FALLING UNDER TARIFF ITEM 8517 69 30 SHALL BE SUBJECT TO MRP BASED DUTY (ON 80% OF MRP)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 25/2016-Central Excise (N.T.) dated 05.05.2016** has further amended **Notification No. 49/2008-Central Excise (N.T.) dated 05.05.2016** and has subjected **Routers** falling under tariff item 8517 69 30 to MRP based duty i.e. 80% of MRP.

DUTY INCLUDES INFRASTRUCTURE CESS WHERE THE EXPORT IS ALLOWED WITHOUT PAYMENT OF DUTY OF GOODS ARE PROCURED WITHOUT PAYMENT OF DUTY FOR USE IN MANUFACTURE OF EXPORT GOODS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 26/2016-Central Excise (N.T.) dated 05.05.2016** has further amended **Notification No. 42/2001-CE(NT) dated 26.6.2001, No. 43/2001-CE(NT) dated 26.6.2001, No. 19/2004-CE(NT) dated 6.9.2004 and No. 21/2004-CE(NT) dated 6.9.2004 - 26/2016 - Dated 5-5-2016 - Central Excise – (N.T.)** and notified that duty includes Infrastructure Cess where the export is allowed without payment of duty or goods is procured without payment of duty for use in manufacture of export goods.

CLARIFICATION ON SEGREGATION OF IMPURITIES VIZ. IRON, STEEL, RUBBER, PLASTIC, DUST ETC. FROM HONEY GRADE BRASS SCRAP

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 1029/17/2016-CX dated 10.05.2016** has clarified that the clearance of segregated foreign materials namely iron, steel, rubber, plastic, dust etc. from honey grade brass scrap before feeding in the furnace cannot be treated as removal of "inputs as such" under Rule 3 (5) of CENVAT Credit Rules, 2004.

The same shall be cleared on payment of Central Excise duty on transaction value as per its appropriate classification and rate of duty determined on merits.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CUSTOMS

NOTIFICATIONS/CIRCULARS

AMENDMENTS WITH REGARD TO EFFECTIVE RATE OF DUTY ON IMPORT OF GOODS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 30/2016-Customs dated 05.05.2016** has further amended **Notification No. 12/2012-Customs dated 17.03.2012** with regard to effective rate of duty on import of various items.

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

CHARGER OR ADAPTER, BATTERY, WIRED HEADSETS FOR USE IN MANUFACTURE OF MOBILE HANDSETS INCLUDING CELLULAR PHONES EXEMPTED FROM CUSTOM DUTY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 31/2016-Customs dated 05.05.2016** has further amended **Notification No. 21/2012-Customs dated 17.03.2012** and exempted charger or adapter, battery, wired headsets for use in manufacture of mobile handsets including cellular phones from custom duty provided the importer complies with the procedure specified in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016.

RESTRICTION ON BENEFIT OF EXEMPTION ON THE ITEMS CHARGER OR ADAPTER, BATTERY, WIRED HEADSETS AND SPEAKERS OF MOBILE HANDSETS INCLUDING CELLULAR PHONES WITHDRAWN

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 32/2016-Customs dated 05.05.2016** has further amended **Notification No. 24/2005-Customs dated 01.03.2005** and has withdrawn the restriction on benefit of exemption on the items charger or adapter, battery, wired headsets and speakers of mobile handsets including cellular phones.

VESSELS CARRYING EXCLUSIVELY COASTAL GOODS EXEMPTED FROM THE PROVISIONS OF SECTION 92, SECTION 93, SECTION 94, SECTION 95, SECTION 97 AND SECTION 98(1)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 56/2016-Customs (N.T.) dated 27.04.2016** superseded **Notification No. 43/97- CUSTOMS (N.T.), dated the 11th September, 1997 and Notification No. 15/98- CUSTOMS (N.T.), dated the 27th February, 1998** and has exempted vessels carrying exclusively coastal goods from the provisions of section 92, section 93, section 94, section 95, section 97 and sub-section (1) of the section 98 of the said Customs Act, 1962.

PERSON-IN-CHARGE OF THE VESSELS CARRYING EXCLUSIVELY COASTAL GOODS OPERATING FROM BERTHS USED BY VESSELS CARRYING IMPORTED GOODS OR EXPORT GOODS SHALL DELIVER A COASTAL MAIFEST IN A SPECIFIED FORM

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 57/2016-Customs (N.T.) dated 27.04.2016 has** directed that the provisions of sections 30 and 41 shall apply to vessels carrying exclusively coastal goods operating from berths used by vessels carrying imported goods or export goods, as the case may be and the person-in-charge of such vessel or his agent shall deliver to the proper officer, a coastal manifest in a specified form (format provided in the notification), prior to the arrival of the vessel or departure.

INCOME TAX

NOTIFICATIONS & CIRCULARS

PROCEDURE FOR ONLINE SUBMISSION OF STATEMENT OF DEDUCTION OF TAX UNDER SECTION 200(3) AND STATEMENT OF COLLECTION OF TAX UNDER PROVISO TO SECTION 206C(3)

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 6/2016 dated 04.05.2016** has notified that deductors/collectors will have the option of online filing of e-TDS/TCS returns through e-filing portal or submission at TIN Facilitation Centres.

Further, the procedure of registration in the e-filing portal, the manner of the preparation of the statements and submission of the statements has been detailed in the notification. The readers may refer the same.

PROCEDURE FOR ONLINE SUBMISSION OF DECLARATION FOR CLAIMING RECEIPT OF CERTAIN INCOMES WITHOUT DEDUCTION OF TAX IN FORM 15G/15H UNDER SECTION 197A(1) OR 197A(1A)

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 7/2016 dated 04.05.2016** has laid down procedure for online submission of declaration for claiming receipt of certain incomes without deduction of tax in Form 15G/15H under section 197A(1) or 197A(1A) of the Income-tax Act, 1961 read with Rule 29C of Income-tax Rules, 1962.

The procedure has been detailed in the notification. The readers may refer the same.

PROCEDURE FOR SUBMISSION OF FORM 15CC BY AN AUTHORISED DEALER IN RESPECT OF REMITTANCES UNDER SECTION 195(6)

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 8/2016 dated 04.05.2016** has laid down procedure for submission of Form 15CC by an authorised dealer in respect of remittances under section 195(6) of the Income-tax Act, 1961 read with rule 37BB of the Income-tax Rules, 1962.

The procedure has been detailed in the notification. The readers may refer the same.

REMOVAL OF ONE OF THE RESTRICTIONS ON CERTIFICATE AUTHORISING RECEIPT OF INTEREST AND OTHER SUMS WITHOUT DEDUCTION OF TAX AS PER RULE 29B

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 31/2016 dated 05.05.2016** has amended Rule 29B and removed one of the conditions on application for certificate authorising receipt of interest and other sums without deduction of tax.

The condition which is removed was:

the applicant has not been subjected to penalty under clause (iii) of sub-section (1) of section 271.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

STATE TAXES

CHATTISGARH

EXTENSION OF TIME LIMIT FOR FORM-18 FY 2013-14 EXTENDED TO 05.05.2016

COMMENTS: The Commercial Taxes Department, Government of Chattisgarh vide **Notification No. F-10-29/2016/CT/V (55) & No. F-10-29/2016/CT/V (56) dated 03.05.2016** has granted exemption and extended the time limit for filing of Form 18 to 05.05.2016.

DELHI

REVISION IN TAX RATE ON DIESEL (HIGH SPEED DIESEL; SUPER LIGHT DIESEL OIL, LIGHT DIESEL OIL)

OUR COMMENTS: The Department Of Trade And Taxes, Government Of National Capital Territory Of Delhi vide **No. F.3(2)/Fin/(Rev-I)/2016-17/dsvi/141 dated 06.05.2016** has revised the tax rate on Diesel (High Speed Diesel; Super Light Diesel Oil, Light Diesel Oil) to 16.75 paise in the rupee.

FURNISHING OF RETURN WITH DIGISTAL SIGNATURE EFFECTIVE FOR TAX PERIOD COMMENCING FROM 01.04.2016

OUR COMMENTS: The Department Of Trade And Taxes, Government Of National Capital Territory Of Delhi vide **Notification No. (F3(643)/Policy/VAT/2016/157-169 dated 03.05.2016** has amended **Notification No.F.3(643)/Policy/VAT/2016/1585-1597 dated 1st March, 2016 and** directed that furnishing of return with digital signatures in accordance with the provisions of the Information Technology Act, 2000 shall be effective for the tax period commencing from 1st April, 2016.

GUJARAT

TAX RATE ON VEHICLES, CHASSIS REDUCED

OUR COMMENTS: The Finance Department, Government of Gujarat vide **Notification No. (GHN-28)VAT-2016-S.5 (2) (51)-TH dated 12.05.2016** has reduced tax rates vehicles and chassis to the extent the tax amount exceeds 15 paise including additional tax at the rate of 2.5 paise in the rupee.

ENTRY TAX ON TRACTORS AND VEHICLES REDUCED

OUR COMMENTS: The Finance Department, Government of Gujarat vide **Notification No. (GHN-29) GEA-2016-(S.12)(12)-TH dated 12.05.2016** has reduced the tax rate on tractors and vehicles as follows:

Tractors - **To the extent to which the amount of tax exceeds five paise in the rupee.**

Motor vehicles including chassis of such motor vehicles and the body which is built on chassis on such motor vehicles covered under entry at serial No. 10 of Schedule appended to Notification No.(GHN-18)GEA-2016-(S.3)(6)-TH Dated the 1st April, 2016 imported by a registered dealer engaged in the business of sales of such vehicles. - **To the extent to which the amount of tax exceeds fifteen paise in the rupee.**

HARYANA

DATE FOR FILING ONLINE QUARTERLY RETURNS FOR THE QUARTER ENDING 31.03.2016 EXTENDED TO 16.05.2016

OUR COMMENTS: The Office Of Excise And Taxation Commissioner, Haryana vide **order dated 04.05.2016** has extended the period for filing online quarterly returns for the quarter ending 31.03.2016, upto 16.05.2016.