71ST ISSUE

5 JUN 2016 - 11 JUN 2016

TAX CONNECT

GST

SERVICE TAX

CENTRAL EXCISE

CUSTOMS

INCOME TAX

STATE TAXES

JAV & ASSOCIATES

Chartered Accountants

Kolkata:
1, Old Court House Corner
"Tobacco House" 1st Floor
Room No.-13 (North)
Kolkata-70001
West Bengal

Vadodara:
Quarter no. 3/174
Gujarat Refinery Township
Jawaharnagar
Vadodara-391320
Gujarat

Contact:
+919331042424; +91931594980;
+918697575185; +913322625203
Email:
tb.chatterjee@dic.co.in;
tb.chatterjee@yahoo.co.in;
cavivekjalan@gmail.com;
vivek.jalan@icai.org

EDITORIAL

Friends

You are all aware that the stage is all set for Goods and Services tax (GST) bill to be passed in this year's Monsoon session and to be rolled out from April 2017, especially as the government has made changes to make it more amenable to other parties. The balance of power in the Rajya Sabha or the Upper House, may change now and this shall provide opportunity for the ruling BJP to pass important legislation. A third of the members of the Upper House step down every two years. Over the rest of 2016, significantly, 56 out of 245 members will be up for re-election.

If GST is rolled out, The Indirect Tax Professionals in industry or profession would have to undergo a thorough education and updation program. While on the one hand it increases the workload, yet on the other hand it is a perfect opportunity to seize the moment and to start on the same plane with stalwarts in the profession.

As a part of our drive to get GST ready, very soon we are rolling out a **workshop on GST** in the month of August. The topics covered in the workshop shall include the following:

- Planning the logistics from today
- Stucturing the contracts
- Registration under GST
- GST on inputs claimable and not claimable
- Planning closing stock before GST
- Return filing, payments and Refunds under GST.

Please refer page 4 of the bulletin for more details.

Further, we are holding **dedicated GST workshops for the corporates.** The initial module shall cover the GST concepts and applications relating to supply of goods and services, exempt supplies, import and export schemes and GST compliance.

Also, the Indirect Taxes Committee of The Bengal Chamber of Commerce and Industry is organizing a **Seminar on Services Tax in July.**

The Seminar will broadly deliberate on the following:

- Key trends in Indirect Taxes as a precursor to GST
- New Amendments under Finance Act 2016
- Recent Developments & Important Court Judgements
- Cenvat Credit & Reverse Charge
- Exemptions, Negative List & Rules for Place of Provision Of Services
- Service Tax on Real Estate Transactions & Works Contract
- Other Sectoral Issues in Service Tax including Mining, IT & Software, Leasing, Restaurants & Hotels, Banking & Financial, Intellectual Property, Intermediaries, etc

Please refer the last page of the bulletin for further details.

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

INDEX

WORKSHOP ON GST

GST:
EXCLUSIVE WORKSHOPs & CORPORATE TRAININGs by TAX CONNECT

OUR TRAINING MODULE FOR CORPORATES TO GET GST READY INCLUDES :

- How to Plan The Logistics from Today
- How to Structure Contracts from Today
- Registration Under GST
- GST on inputs claimable and not claimable
- Planning Closing Stock before GST
- Return Filing Under GST
- Payments Under GST
- Refunds Under GST
- How to make Invoices under GST
- GST on outputs Input>Output = Refund

CONTACT : cavivekjalan@gmail.com ; tb.chatterjee@yahoo.com
+ 33 2262 5203 ; + 919831594980

Contact:

JAV & ASSOCIATES
Chartered Accountants

Kolkata:
1, Old Court House Corner
"Tobacco House" 1st Floor
Room No.-13 (North)
Kolkata-70001
West Bengal

+919331042424; +91931594980;
+918697575185; +913322625203
Email:
tb.chatterjee@dic.co.in;
tb.chatterjee@yahoo.co.in;
cavivekjalan@gmail.com;
vivek.jalan@icai.org

COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 5th Jun, 2016 to 11th Jun, 2016	STATUTE
5th Jun, 2016	Service Tax deposit of previous month (Company/ Society)	Finance Act
	Deposit of WCT of previous month	Kerala VAT Act
7th Jun, 2016	Deposit of WCT of previous month	Assam VAT Act Tripura VAT Act Manipur VAT Act
	TDS/TCS deposit of previous month	Income Tax Act
10th Jun, 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 Commercial Tax Act Madhya Pradesh Commercial Tax Act
	Deposit of Entry tax of previous month	Chattisgarh Entry Tax Act Madhya Pradesh Entry Tax Act
	Deposit of VAT of previous month	Chattisgarh VAT Act Madhya Pradesh VAT Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: APPEALS AND REVIEW: APPEAL TO HIGH COURT AND SUPREME COURT

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

Appeal to the High Court

- The party aggrieved by any order passed by the Appellate Tribunal u/s 104 may file an appeal (in the form of a memorandum) to the High Court within 180 days of the order received accompanied by a prescribed fee. Appeal after 180 days may be accepted if the High Court is satisfied that there was sufficient cause

- No appeal shall lie to High Court against an order passed by the appellate tribunal under section 85 if such order relates to a matter:-

  - where two or more states, or a state and center, have different views regarding a transaction being intra-State or inter-State; or

  - where two or more states, or a state and center, have different views regarding place of supply.

- If the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated. Any other question may be heard only if the High Court is satisfied that the case involves such question.

- The High Court shall decide and deliver judgment and may award such cost as it deems fit.

- The High Court may determine any issue which has not been determined or has been wrongly determined by the Appellate Tribunal.

- The appeal before the High Court shall be heard by a bench of not less than two Judges of the High Court and decision shall be taken on the basis of the majority. Where there is no such majority, the Judges shall state the point of law upon which they differ which shall then be heard upon by one or more of the other Judges of the High Court

- The provisions of the Code of Civil Procedure, 1908 relating to appeals to the High Court shall apply here.

Appeal to the Supreme Court

- For any order passed by the High Court in an appeal u/s89, an appeal shall lie to the Supreme Court either on its own motion or on oral application made by the party aggrieved.

- Further, an appeal shall lie to the Supreme Court also for any order passed by the Appellate Tribunal u/s 85 in the nature referred to in section 89(2).

- The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall apply in the case of appeals u/s 109 as they apply in the case of appeals from decrees of a High Court.

- Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 89 in the case of a judgment of the High Court.

SERVICE TAX

NOTIFICATIONS/CIRCULARS

ENACTMENT OF FINANCE BILL, 2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. F. No. B-1/19/2016 -TRU dated 31.05.2016** has notified that amendments made in the Union Budget 2016-17 have come into force from the date when the Finance Bill, 2016 received the assent of the President of India i.e. 14.5.2016.

Some of these include notification Nos. 13/2016 – ST, 14/2016 – ST and certain entries in notification Nos. 9/2016 – ST and 10/2016- ST, all dated 1.3.2016.

CASE LAW

M/S. RENTWORKS INDIA PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, MUMBAI-V. [CESTAT MUMBAI]

BRIEF: Amount considered as a salary by the Income Tax Department cannot be held as consultancy charges by the Service Tax Department and made taxable.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacturing activity and it receives various taxable services from their foreign based service provider. They entered into an agreement with one of the directors for rendering the services on the management of market and exclusive services against payment of a fixed amount as monthly remuneration and also additional amount at the discretion of the board.

The Revenue issued a show cause notice to the assessee for demand of Service Tax on the above mentioned service under the category of “Management Consultancy Services” and under Reverse charge mechanism.

The Income Tax Department has considered the amount paid to the director as a salary in adjudication proceedings.

The Hon’ble CESTAT held that if an amount is considered as a salary by the Income Tax Department, a branch of Ministry of Finance, Department of Revenue, it cannot be held by the Service Tax Department, another branch of Ministry of Finance, Department of Revenue, as amount paid for consultancy charges and taxable under Finance Act.

Therefore, the amount paid has to be treated as salary to the director and the salary is not to be considered as to fall under the category of “Management Consultancy Services” and liable for Service Tax. The impugned order was accordingly set aside.

[Decided in favour of assessee]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

INDIRECT TAX DISPUTE RESOLUTION SCHEME RULES, 2016

OUR COMMENTS: The Ministry of Finance, Government of India vide **Notification No 29/2016-CE(NT) dated 31.05.2016 and vide Instruction No. F No 1080/06/DLA/IDRS/2016 dated 01.06.2016** has made Indirect Tax Dispute Resolution Scheme Rules, 2016 which shall come into force on 01.06.2016.

The rules prescribe the following forms to be used for making the scheme operational:

i) **Form 1:** For making declaration under the scheme.

ii) **Form 2:** Here the designated authority shall acknowledge the receipt of declaration post which the proceedings before the Commissioner (Appeals) shall remain suspended for 60 days.

iii) **Form 3:** To be filed by the declarant giving the details of the amount to be deposited by him within fortnight of the receipt of the dated acknowledgement and report the details of deposit made within 7 days of making the deposit to the designated authority.

iv) **Form 4:** Here the designated authority shall pass an order of discharge of dues in respect of the case before Commissioner (Appeals) for which the declaration has been made in Form 1.

On receipt of Form 4 from the declarant, the Commissioner shall match the same with the copy received directly from the designated authority and shall remove the appeal from his pendency as being disposed off. The said disposal of appeal shall have no binding precedent value.

CASE LAWS

CST, DELHI - I VERSUS M/S MAYFAIR INDUSTRIES [CESTAT NEW DELHI]

BRIEF: Payment of some amount during investigation by itself cannot be held as admission of duty evasion.The evasion has to be decided based on material evidence collected during investigation.

OUR COMMENTS: In the above case, the assessee is a manufacturer of plastic parts for motor vehicles liable to Central Excise duty.

The Department initiated proceedings against the assessee on the premise that the appellants have evaded payment of Central Excise duty on the goods cleared by them. The searches conducted in various business and residential premises, documents recovered and statements recorded from various persons formed the basis of the premise.

They also contended that the statements given by various persons are admissible evidence against the assessee. Further, it was argued that respondent voluntarily deposited some amount which indicates the acceptance of their clandestine activity

The Hon'ble CESTAT held that statements given before the excise officers are admissible evidence, however, the contents of such statements should clearly bring out the nature of offence with specific details which can be cross verified also.

In the present case specific details and such cross verification and corroboration is lacking. Mere payment of some amount during investigation by itself cannot be held as admission of duty evasion which has to be decided based on material evidence collected during investigation.

Accordingly, the appeal of the Department was set aside.

[Decided in favour of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

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. 80/2016-Customs (N.T.) dated 02.06.2016 & in supersession of Notification No. 77/2016-Customs (N.T.) dated 19.05.2016** 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. **03.06.2016** 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	49.70	47.95
2.	Bahrain Dinar	185.25	172.90
3.	Canadian Dollar	52.45	50.75
4.	Danish Kroner	10.35	9.95
5.	EURO	76.85	74.30
6.	Hong Kong Dollar	8.80	8.55
7.	Kuwait Dinar	230.70	215.90
8.	New Zealand Dollar	46.95	45.15
9.	Norwegian Kroner	8.30	8.00
10.	Pound Sterling	98.90	95.75
11.	Singapore Dollar	49.85	48.30
12.	South African Rand	4.45	4.20
13.	Saudi Arabian Riyal	18.60	17.40
14.	Swedish Kroner	8.30	8.00
15.	Swiss Franc	69.55	67.10
16.	UAE Dirham	19.00	17.80
17.	US Dollar	68.30	66.60
18.	Chinese Yuan	10.45	10.10

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	62.90	60.90
2.	Kenya Shilling	69.15	64.65

FIXATION OF TV 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. 78/2016-Customs (N.T.) dated 31.05.2016** 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.

FURTHER RELAXATION OF KNOW YOUR CUSTOMER (KYC) NORMS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 79/2016-Customs (N.T.) dated 31.05.2016** has appointed officers to act as a Common Adjudicating Authority to exercise powers and discharge duties conferred or imposed on specified officers in respect of specified noticees for the purpose of adjudication of certain show cause notices

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

INCOME TAX

NOTIFICATIONS & CIRCULARS

ADMISSIBILITY OF BAD DEBT CLAIM U/S 36(1) (VII)

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 12/2016 dated 30.05.2016** has clarified that claim for any debt or part thereof shall be admissible u/s 36(1)(vii) of the Act, if it is written off as irrecoverable in the books of accounts of the assessee and it fulfills the conditions sub-section 36(2)(2) of the Act.

The Hon'ble Supreme Court in the case of **TRF Ltd. In CA Nos. 5292 to 5294 of 2003 vide judgment dated 9.2.2010** has settled that for allowing deduction for the amount of any bad debt or part thereof under section 36(1) (vii), it is not necessary for assessee to establish that the debt, in fact has become irrecoverable; it is enough if bad debt is written off as irrecoverable in the books of accounts of assessee.

INCOME DECLARATION SCHEME RULES, 2016: JURISDICTION OF INCOME-TAX AUTHORITIES

OUR COMMENTS: Rule 4 of the Income Declaration Scheme, 2016, provides that a declaration of income or income in the form of investment in any asset u/s 183 shall be made in the prescribed manner to the Principal Commissioner or the Commissioner who exercises jurisdiction over the declarant.

The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 19/2016 dated 25.05.2016 has** clarified that the jurisdictional Principal Commissioner or the Commissioner who exercises jurisdiction u/s 120 of the Income-tax Act, 1961 shall be the Principal Commissioner or the Commissioner to whom declaration under section 183 is to be made.

31.12.2016 APPOINTED AS DUE DATE FOR DECLARATION OF TAX ARREAR UNDER THE DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 34/2016 dated 26.05.2016** has appointed the 31st day of December, 2016 as the date on or before which a person may make a declaration to the designated authority in respect of tax arrear or specified tax under the Direct Tax Dispute Resolution Scheme, 2016.

DIRECT TAX DISPUTE RESOLUTION SCHEME RULES, 2016

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 35/2016 dated 26.05.2016** has made Direct Tax Dispute Resolution Scheme Rules, 2016 which shall come into force on 01.06.2016.

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

01.06.2016 APPOINTED AS EFFECTIVE DATE FOR EQUALISATION LEVY OF THE FINANCE ACT 2016

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 37/2016 dated 27.05.2016** has appointed the 1st day of June, 2016 as the date on which Chapter VIII (EQUALISATION LEVY) of the Finance Act 2016 shall come into force.

EQUALISATION LEVY RULES, 2016

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Notification No. 38/2016 dated 27.05.2016** has made Equalisation levy Rules, 2016 which shall come into force on 01.06.2016.

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

JHARKHAND

EXEMPTION TO THE CENTRAL MASTER CANTEEN OF CENTRAL RESERVE POLICE FORCE (CRPF), GROUP CENTRE, SEMBO, RANCHI

OUR COMMENTS: The Commercial Taxes Department, Government of Jharkhand vide **Notification No. S.O.26 dated 01.06.2016** has granted exemption to CRPF Group Centre, Sembo, Ranchi from payment of tax on any goods (excluding Automobiles & Luxury items like Cosmetics, Electronics Goods and Electrical Goods and Liquor) required for their bonafide use.

Luxury items like Cosmetics, Electronics Goods, Electrical Goods and Automobiles will be taxable @ 5%.

The notification shall be effective from the date of its issue till 31.03.2017.

KERALA

DUE DATE FOR FILING OF ANNUAL RETURN FOR THE YEAR 2015-16 EXTENDED TO 31.07.2016

OUR COMMENTS: The Office of the Commissioner of Commercial Taxes, Government of Kerala vide **Circular No. 06/2016 dated 01.06.2016** has extended the due date of filing annual return for the year 2015-16 to 31.07.2016.

MADHYA PRADESH

ESTABLISHMENT OF CHECK POST AND BARRIER

COMMENTS: The Commercial Tax Department, Government of Madhya Pradesh vide **Notification No. No. F-A-3-21-2016-1-V-(31) dated 30.05.2016** has established the following two check post and barrier:

1. Village Talav in the district Barwani on Sendhwa-Khetia-Nandoorwar road
2. Village Ata in the district Sagar on Sagar-Lalitpur road.

TELENGANA

PRE-PAYMENT OF DEFERRED TAX AT SPECFIED DISCOUNT RATE

OUR COMMENTS: The Revenue (Commercial Taxes-II) Department, Government of Telengana vide **Notification G.O.MS.No. 115 dated 01.06.2016 has rescinded the Notification G.O.Ms No.136 dated 17.08.2015** and changed the discount rate for NPV of deferred taxes from 7% to 8% by an industrial unit provided the current year instalment is paid at least 10 months in advance.

The discount rate of 8% is valid from 01.06.2016 to 31.03.2017 and shall come into effect from 01-06-2016.

GUIDELINES FOR POST REGISTRATION INSPECTION VISIT/ ADVISORY VISIT

OUR COMMENTS: The Commercial Taxes Department, Government of Telengana vide **Circular CCT's Ref. No. CS(1)/18/2015 dated 25.05.2016 has** reiterated the guidelines for Post Registration Inspection Visit/ Advisory Visit to be carried out on all new VAT dealers after obtaining the VAT Registration. The same has been done keeping in line the principles defined in the General Procedures Manual-II.

BOOK ON GOODS AND SERVICE TAX (CONCEPT, ISSUES, MODEL AND ROAD MAP)

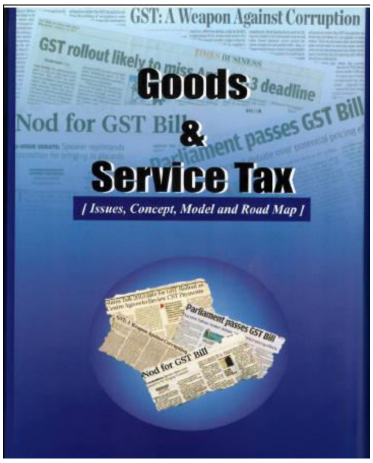
AVAILABLE IN ALL LEADING LEGAL BOOK SHOPS INCLUDING TAX N LAW

There will be significant changes in Indirect Tax system in India with the implementation of GST effective from1st April'2016. The concept of GST being a destination based tax is totally new in India. At present we follow origin based tax . We have to unlearn most of the present tax system and to relearn the new GST structure for effective implementation. ERP system will undergo major changes.

On a rough estimate the corporates are expected to reduce its material cost by minimum 1% and logistic cost by 10-15% provided proper GST structure is established. It means lot of money provided the benefits are not passed on to the customers. It is expected that the country's GDP will increase by 2% on implementation of GST.

In the background of the above, we are pleased to inform you that we have launched a book on ' **GOODS AND SERVICE TAX (CONCEPT, ISSUES, MODEL AND ROAD MAP)** on All India basis.

We solicit your blessings and good wishes in the whole endeavour.



Authors:

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

Knowledge Partner:
Bengal Chamber of Commerce and Industry (the first chamber of the Country)

Published *by:*

Tax N Law, Kolkata

6, Old Post Office St., B. B. D. Bag
Kolkata- 700001
Phone: 033 2242 7092

BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

AVAILABLE IN ALL LEADING LEGAL BOOK SHOPS INCLUDING BOOK CORPORATION

Works Contract has been one of the most complex and litigation prone areas in Indirect Taxes. However with good understanding of all the provisions under Service Tax & VAT which hit Works Contracts & proper planning, Trade & Industry can not only avoid litigation but can also save around 5% - 10% on indirect taxes which by no means is an ordinary saving in the competitive market. For Trade & Industry, the problems on the subject have been many. Over the last few years we have received queries and replied to the issues at various forums.

Vide this publication, we have made an attempt to cover in detail all issues related to **Service Tax:** Valuation, Point of Taxation, Place of Taxation, Abatement, Reverse Charge, Input Tax Credit Mechanism & **VAT**: Contractual Transfer Price, Modes of Valuation, WIP, STDS as well as **GST** . We have also focused on the issues faced by various sectors on account of Works Contract.

This book is divided into Seven Parts covering several broad areas. Each area has the provisions directly from the Statue in the beginning and detailed discussions on the provisions in the form of questions and answers thereafter. Since litigations on the subject have been manifold, we have also covered judicial pronouncements extensively.

Authors:

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

Vivek Jalan
B. Com, FCA, CIDT (ICAI)

Published *by:*

BOOK CORPORATION

4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
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SEMINAR ON SERVICE TAX

THE BENGAL CHAMBER

The Indirect Taxes Committee of

The Bengal Chamber of Commerce and Industry is organizing a

SEMINAR ON SERVICES TAX

from 10.00 a.m. onwards, on 8th July, 2016, at The Park Kolkata

The Seminar will broadly deliberate on the following :

- Key trends in Indirect Taxes as a precursor to GST
- New Amendments under Finance Act 2016
- Recent Developments & Important Court Judgements
- Cenvat Credit & Reverse Charge
- Exemptions, Negative List & Rules for Place of Provision Of Services
- Service Tax on Real Estate Transactions & Works Contract
- Other Sectoral Issues in Service Tax including Mining, IT & Software, Leasing, Restaurants & Hotels, Banking & Financial, Intellectual Property, Intermediaries, etc

Eminent tax experts who shall be addressing and interacting with the participants on the above include:

Mr. T B Chatterjee, Chairperson, Indirect Taxes Committee, The Bengal Chamber of Commerce and Industry & Chief Corporate Officer, Legal and Corporate Affairs, DIC India Ltd

Mr. Pulak Saha, Co-Chairperson, Indirect Taxes Committee, The Bengal Chamber of Commerce and Industry & Partner - Tax & Regulatory Services, Price Waterhouse & Co. LLP

Mr. Vivek Jalan, FCA, JAV & Associates, Chartered Accountants

Mr. Rajarshi Dasgupta, Associate Director - Indirect Tax , KPMG

Mr. Arun Agarwal, FCA, K N Jain & Co

Mr. M. S. Mani, Senior Director, Deloitte Touche Tohmatsu India Private Limited

The participation fee is Rs.5,500/- (inclusive of taxes). A discount of 10% is applicable for a group registration on 4 or more participants registering from the same organization. An early bird discount of 10% is also available for registrations before 15th June, 2016.

For more information & nominations please contact :

Ms. Sarbani Sett (M: 9831430781 / Email : sarbani@bengalchamber.com)