TAXCONNECT
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EDITORIAL

Friends,

After protests by certain Commercial tax Officials on the issue of jurisdiction, it is now the turn of Central Excise Officers to launch a protest. The All India Association of Central Excise Gazetted Executive Officers is opposed to any assessee of excise and service tax being moved to states in the new GST regime and has given notice for protest that includes lunch hour dharnas and mass casual leave on the budget day. The revenue department has issued an order asking officials not to go on any protest and cited service rules that bar such action. The body has proposed that its officers only to collect CGST and IGST and that State government officials should be allowed to collect only SGST on intra-state supply of goods and services the body proposed. **One does hope that in this tussle of power, the assessee does not have to go through two assessments by two authorities for the same transaction. Dual Jurisdiction would also lead to large scale disputes due to difference of opinion of the two authorities on the same transaction!**

Further, to expedite passage of the CGST & IGST legislations, the winter session of Parliament has been advanced to be held from Nov'16. Also GSTN will open the website for the registration of taxpayers such as traders, manufactures and service providers in Nov'16. Taxpayers will be able to access the website and submit the necessary information for registering with the tax network under GST. Login IDs and passwords will be given to the taxpayers. They can log in and fill in certain details.

It is also pertinent to note that large scale training of Central & State Government Tax Officials on GST is being carried out. **Hence, the Government is leaving no stone unturned for meeting the target of the rollout of the GST from April 1 2017. Trade & Industry must take note and start their GST Implementation process too!**

Now, an update about the present taxes -

In Central Excise, the filed formations have been directed to strictly comply with the conditions for granting immunity to a person from prosecution, penalty and fine as per Section 32K(2) of the Central Excise Act, 1944, Section 83 of the Finance Act, 1994 and Section 127H(2) of the Customs Act, 1962.

In Customs, the provisions of exemption to gold, silver and platinum imported under specified schemes and exemption to re-imported goods exported under various export promotion schemes have been amended.

In Income-Tax, it has been clarified that in cases where the assessees do not have PAN, the declaration under the Scheme can be filed manually before the jurisdictional Pr.Commissioner/Commissioner by quoting the date and acknowledgment number of PAN application form.

In VAT, in Uttarakhand, an additional tax of 1% has been imposed on the taxable turnover of sale or purchase or both of goods not included in Schedules.

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

Truly Yours

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SYNOPSIS

GOODS & SERVICE TAX (GST)

AMENDMENT/CANCELLATION OR REVOCATION OF GST REGISTRATION

In the last issue, we discussed how a new or existing dealer can obtain GST registration. In this issue, we will discuss about amendment, cancellation and revocation of registration.

Amendment of GST Registration Details

- Any change in details furnished during registration must be submitted **within 15 days from the date of such change in Form GST REG-11.**

- For changes specified in rules, after verification and approval of officer, an order will be sent in Form GST REG-12. For other changes, amendment will be made as per Form GST REG-11.

- For any changes in business details resulting in change of PAN number a fresh registration in Form GST REG-01 shall be required.

Cancellation of GST Registration

- For cancellation of registration, one shall submit Form GST REG-14 along with required details and documents.

- Within 7 days a show cause notice in Form GST REG-15 shall be issued to the taxable person to provide the reason for cancellation.

- Within 30 days of receipt of Form GST REG-15 or show cause notice, a cancellation order in Form GST REG-16 shall be issued after necessary verification and approval by an officer.

- A voluntarily registered taxable person shall be allowed to apply for cancellation only after completion of 1 year of registration.

Revocation of GST Registration

- One can apply for revocation of registration in Form GST REG-17 within 30 days from date of cancellation order.

- If the officer requires additional details or clarification, Form GST REG-3 is issued within 3 working days.

- The response shall be given within 7 working days by providing requisite details in Form GST REG-4.

- The cancellation shall be revoked by issuing an order in Form GST REG-18 within 30 days from date of application.

- If the officer is not satisfied, the revocation application may be rejected in Form GST REG-5 after issuing a show cause notice in Form GST REG-19 and hearing.

TAX CALENDAR

Due date	COMPLIANCES FROM 16th Jul, 2016 to 22nd July, 2016	State/Region
20th July, 2016	Deposit of VAT of previous month (VAT Act)	Karnataka, Tamil Nadu, Chandigarh Punjab (if payment by cheque) Uttar Pradesh, Uttarakhand, Manipur, Goa (if Tax> or = Rs. 1 lac)
	Filing of monthly/quarterly VAT return (VAT Act)	Karnataka (Monthly) Tamil Nadu(Monthly) Uttar Pradesh (Monthly) Uttarakhand (Monthly) Punjab (Monthly, if payment is through cheque) Manipur (Monthly, if PY turnover is >Rs. 40 lacs)
	Deposit of P Tax of previous month (Commercial Tax Act)	Karnataka, West Bengal
	Deposit of Entry tax of previous month (Entry Tax Act)	Andhra Pradesh, Karnataka Uttar Pradesh, Uttarakhand
	Deposit of WCT of previous month (VAT Act)	Andhra Pradesh, Karnataka Tamil Nadu, Uttar Pradesh Uttarakhand, Goa (Tax >/= Rs. 1 lac)
	Filing of monthly/quarterly WCT return (VAT Act)	Karnataka (Monthly) Uttarakhand (Quarterly)
	Issuance of WCT certificate (VAT Act)	Uttar Pradesh , Manipur
21st July, 2016	Deposit of VAT of previous month (VAT Act)	Delhi, Maharashtra, Odisha, West Bengal Assam, Nagaland Meghalaya
	Filing of monthly/quarterly VAT return (VAT Act)	Assam (Monthly) Maharashtra (Monthly) Odisha (Monthly) Meghalaya (Monthly)
	Deposit of WCT of previous month (VAT Act)	Maharashtra
	Deposit of Entry tax of previous month (Entry Tax Act)	Odisha, West Bengal
	Issuance of WCT certificate (VAT Act)	Meghalaya
	Deposit of Ptax of previous month (Commercial Tax Act)	Odisha
	ESI deposit of previous month (ESI Act)	All India
22nd July, 2016	Deposit of VAT of previous month (VAT Act)	Gujarat
	Deposit of WCT of previous month (VAT Act)	Gujarat
	Issuance of WCT certificate (VAT Act)	Delhi
	Deposit of Entry tax of previous month (Entry Tax Act)	Gujarat

SERVICE TAX

COURT DECISIONS

M/S SITEL INDIA LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, MUMBAI II [CESTAT MUMBAI]

BRIEF: If the absence of any service adversely impacts the quality and efficiency of the provision of the output service, the same is to be considered as input services.

Accordingly, Health Club and Fitness Center, Transport Goods by Road and Electricity Expenses services qualifies as input services for a BPO and cenvat credit for the service tax paid on such services shall be allowed.

OUR COMMENTS: In the above case, the assessee is a BPO Outfit engaged in the provision and export of various services namely Business Auxiliary Services, Business Support Services, Manpower Recruitment Agency and Information Technology Software Services. They have filed various refund claims of accumulated Cenvat Credit of various services (under Rule 5 of Cenvat Credit Rules 2004) like **Health Club and Fitness Center, Transport Goods by Road and Electricity Expenses** services.

However, the Revenue disallowed the Cenvat Credit in respect of these services on the ground that these services do not fall under the definition of input service.

The Hon'ble CESTAT held that:

- In the BPO services the employees are required to perform their duties on 24x7 basis which adversely affects their health and then directly affects the performance of the services. The health and fitness of the employees is very essential for a BPO company.

  As per CBEC Circular No. 1201/01/2010-ST dt. 19.01.2010, in case the absence of any service adversely impacts the quality and efficiency of the provision of service, the same is to be considered as input services.

  Therefore, health and fitness services availed by the company for their employee is a necessity for providing the better quality of output service and included in the definition of input services.

- The transportation was used in the BPO for the various activities such as transportation of equipment like computers etc. and there is no evidence available that transport service was used for transporting the household goods of employees. Therefore, these services are input services.

- The services like repair, maintenance, electricity are directly used by the BPO service provider in order to carry out their day-to-day business activity. Therefore, included in the definition of input services.

As all the three services are input services, the Cenvat credit is allowed and are entitled for the refund of Service tax.

[Decided in favor of assessee].

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

AMENDMENT IN NOTIFICATION NO. 27/2014-CENTRAL EXCISE(NT), DATED 16.09.2014

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 48/2016 - Central Excise (N.T.) dated 7.10.2016** has amended notification No.27/2014-Central Excise (N.T.) dated 16.09.2014. with respect to substitution of the word "Ujjain" in place of "Gwalior".

The readers may refer the notification for details.

CONDITIONS FOR GRANTING IMMUNITY TO A PERSON FROM PROSECUTION, PENALTY AND FINE SHALL BE STRICTLY COMPLIED WITH

OUR COMMENTS: As per Section 32K(2) of the Central Excise Act, 1944, Section 83 of the Finance Act, 1994 and Section 127H(2) of the Customs Act, 1962, immunity granted to a person from prosecution, penalty and fine shall stand withdrawn if such person fails to pay any sums specified under order of settlement within the stipulated time.

The Dept. of Revenue, Ministry of Finance, Government of India vide **F. No. 275/29/2016-CX.8 A dated 21.09.2016** has instructed field formations to closely monitor and ensure strict compliance with the above conditions stipulated in the order of Settlement Commission. Necessary action shall be taken in cases of any violations after bringing it to the notice of the Commission.

COURT DECISIONS

M/S TML INDUSTRIES LTD. VERSUS COMMISSIONER (APPEAL) CENTRAL EXCISE, CUSTOMS AND SERVICE TAX-VADODARA-II [CESTAT AHMEDABAD]

BRIEF: Service Tax paid on erection of Kachaha shed for storage of input material during monsoon is allowed for cenvat credit.

OUR COMMENTS: In the above case, the assessee through its service provider erected temporary Kachacha shed by using tarpaulin, bamboo, ballies etc. near his factory premises for storage of raw materials. It availed cenvat credit of service tax paid for erection with the understanding that the temporary shed, for storage of input, relates to their manufacturing activities.

However, he was issued with demand notice for recovery of in admissible Cenvat Credit alongwith proposition for imposition of penalty. On adjudication the demand notice was confirmed and penalty of equal amount was imposed.

The Hon'ble CESTAT held that there is no reason for not allowing the benefit of credit as the said service is definitely related to the manufacturing activities and covered by the definition of input service as contained in Rule 2 (l) of Cenvat Credit Rules 2004.

References: Kitec Industries (India) Ltd. Commr. Of Central Excsie & Service Tax, Vapi 2015 (38) STR 223(Tri.-Ahmd).

Accordingly, the impugned order was set aside.

[Decided in favor of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

TWO NEW ICDS IN LIST OF CUSTOMS STATIONS FROM WHERE EXPORT/IMPORT UNDER EP SCHEMES CAN TAKE PLACE

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 54/2016-Customs dated 03.10.2016** has included 2 new ICDs - **Kalinganagar and Tumb Village (Taluka Umbergaon, District Valsad)** in the list of Custom Stations from where export/import under EP schemes can take place. The following notifications have been amended to give effect to the above.

- 91/2009 to 104/2009, 112/2009-Customs, all dated September, 2009
- 5/2013 and 6/2013-Customs, dated the 18.04.2013
- 22/2013 and 22/2013 -Customs, dated 18.04.20013
- 16/2015-Customs, dated 01.04.2015

AMENDMENT IN NOTIFICATION NO.12/2012-CUSTOMS, DATED 17.03.2012

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 55/2016-Customs dated 03.10.2016** has amended **Notification No.12/2012-Customs, dated 17.03.2012** and has inserted Technitium-99m as entry No 163B in the Table.

AMENDMENT IN PROVISIONS OF EXEMPTION TO GOLD, SILVER AND PLATINUM IMPORTED UNDER SPECIFIED SCHEMES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 56/2016-Customs dated 03.10.2016** has amended **Notification No.57/2000-Customs, dated 08.05.2000** and has provided that in the case of import of gold / silver / platinum under the scheme for 'Export Against Supply by Nominated Agencies', the importer shall execute a bond within 90 days in a specified manner.

AMENDMENT IN PROVISIONS OF EXEMPTION TO RE-IMPORTED GOODS EXPORTED UNDER VARIOUS EXPORT PROMOTION SCHEMES

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 57/2016-Customs dated 03.10.2016** has amended **Notification No.94/96-Customs, dated 16.12.1996** and has provided that exemption to reimported goods shall be provided as follows:

- In Bhutan, the machinery and equipment [except exported under DEEC or EPCG or DEPB] shall be re-imported from Bhutan within 7 years (may be extended for further 3 years) of exportation.

- In other cases, the goods [except exported under DEEC or EPCG or DEPB] shall be re-imported within 3 years (may be extended for further 2 years) of exportation.

- If goods are exported under DEEC or EPCG or DEPB, the reimportation shall happen within 1 year (may be extended for further 1 year) of exportation.

AMENDMENT IN NOTIFICATION NO.157/1990-CUSTOMS, DATED 28.03.1990

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 58/2016-Customs dated 05.10.2016** has amended **Notification No.157/1990-Customs, dated 28.03.1990** with respect to provisions for exemption to specified goods imported for display or exhibition, fair demonstration etc.

The readers may refer the notification for details.

INCOME TAX

NOTIFICATIONS & CIRCULARS

INCOME-TAX (26TH AMENDMENT) RULES, 2016

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India **Notification No. 91/2016 dated 06.10.2016** has made Income-tax (26th Amendment) Rules, 2016.

In the Income-tax Rules, 1962, the following rules have been amended:

Rule 114D: Time and manner in which persons referred to in rule 114C shall furnish a statement containing particulars of Form No. 60

Rule114E: Furnishing of statement of financial transaction.

The readers may refer the notification for details

ELECTORAL TRUSTS NOT TO ACCEPT SPECIFIED CONTRIBUTIONS FOR TAX EXEMPTIONS AND RELIEFS AS PER RULE 13B

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India **Notification No. 92/2016 dated 07.10.2016** has made Income-tax (27th Amendment) Rules, 2016 and has provided that the electoral trust shall not accept contributions from:

- a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 and

- a foreign source as defined in clause (j) of section 2 of the Foreign Contribution (Regulation) Act, 2010 .

The above is in addition to sources specified earlier i.e.

- an individual who is not a citizen of India or from any foreign entity

- any other electoral trust.

UNDER IDS, THE ASSESSEE WHO DO NOT HAVE PAN MAY FILE DECLARATION BY QUOTING DATE AND ACKNOWLEDGMENT NUMBER OF PAN APPLICATION FORM

-

OUR COMMENTS: In the Income Declaration Scheme, 2016 that there can be cases where the assessees do not have PAN but would like to file declaration under the Scheme. Also, he may not get PAN by the date of closure of the Scheme.

For such cases, The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Instruction No.10 of 2016 dated 28.09.2016** has decided that declaration can be filed manually before the jurisdictional Pr.Commissioner/Commissioner by quoting the date and acknowledgment number of PAN application form.

Form-2 shall be issued only after the allotment of PAN to the declarant. If PAN allotment could not be made due to non-compliance/non-furnishing of documents by the declarant, the declaration shall be treated as invalid.

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STATE TAXES

HIMACHAL PRADESH

AMENDMENTS IN SCHEDULE A & B

OUR COMMENTS The Excise & Taxation Department, Government of Himachal Pradesh, vide **No. EXN-F(10)-5/2015 dated 01.10.2016** has amended Schedule A & B as follows:

Amendment of Schedule-A
Entry no. 66A shall be substituted as "66-A. All kinds of LED Lights."; and

Entry no. 88 shall be substituted as “88. Renewable energy devices and parts thereof, except Solar Cookers and Solar Lanterns.”.

Amendment of Schedule-‘B’
The following new entries shall be made

"18-B. Electric vehicles for a period of five years (effective from the date of publication of Notification No. EXN-F(10)-5/2015 dated 01/10/2016).; and

"50-B. Solar Cookers and Solar Lanterns."

JAMMU & KASHMIR

DUE DATE FOR FILING OF Q1 RETURNS FOR 2016-17 EXTENDED TO 31.10.2016

OUR COMMENTS The Finance Department, Government of Jammu and Kashmir, vide **SRO 315 dated 28.09.2016** has extended last date for filing of returns for the Q1 of 2016-17 to 31st October, 2016.

Therefore, the deadline for filing of both Q1 & Q2 returns of 2016-17 shall now be 31st of October 2016.

31.10.2016 NOTIFIED AS DUE DATE FOR FILING OF AUDIT RETURN FOR THE ACCOUNTING YEAR 2015-16

OUR COMMENTS The Department of Commercial Taxes, Government of Jammu & Kashmir, **Notification No. 04 of 2016 dated 29.09.2016** notified that the registered dealers whose gross turnover in a year is Rs. 1 crore or more and who are required to file the audit reports shall do so for the accounting year 2015-16 by 31st October, 2016.

MADHYA PRADESH

AMENDMENTS IN ENTRY TAX ACT

OUR COMMENTS The Commercial Tax Department, Government of Madhya Pradesh, vide **Notification No. F-A-3-46-2016-1-V(41) dated 28.09.2016** has notified the following for Section 3(2) of the Entry Tax Act:

1) Persons bringing or causing to be brought into any local area, the goods purchased through online shopping or e-commerce, for consumption, use or sale therein.

(2) Goods specified in Schedule-II of the Entry Tax Act, other than motor vehicles.

Further, vide **Notification No. F-A-3-46-2016-1-V(42) dated 28.09.2016** entry tax shall be paid at 6% by the above specified persons.

UTTARAKHAND

ADDITIONAL TAX OF 1% TO BE PAID ON GOODS NOT INCLUDED IN SCHEDULES TO THE VAT ACT

OUR COMMENTS The Finance Section - 8, Government of Uttarakhand vide Notification No. 824/2016/13(120)/XXVII(8)/2016 dated 04.10.2016 has directed that in addition to the tax payable under any other provision of the VAT Act, every dealer shall pay an additional tax of 1% on the taxable turnover of sale or purchase or both in respect of goods other than those included in any of the Schedules to the said Act.

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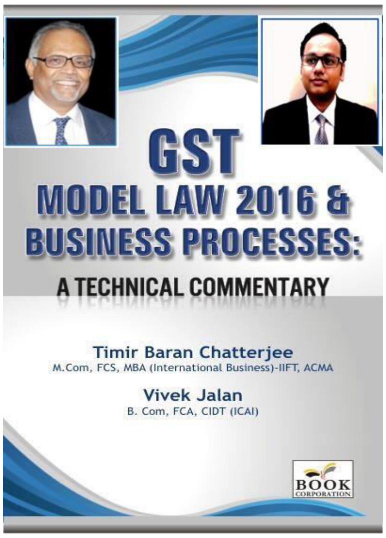
IN STANDS - GST: MODEL LAW 2016 & BUSINESS PROCESSES : A TECHNICAL COMMENTARY



ABOUT THE BOOK: GST Bill is going to be passed in July 2016 and GST is expected to go live from 1st April 2017! In this backdrop, as our initiative to get GST READY, we have launched this publication. This books provides an insight into the following –

1. Procedural provisions under The Model GST Law 2016
2. Glimpse of the Model GST Law 2016
3. Model GST Law 2016
4. GST Valuation (Determination of The Value of Supply of Goods and Services) Rules, 2016
5. The Integrated Goods and Services Tax Act, 2016
6. GST Registration Process
7. GST Return Process
8. GST Payment Process
9. GST Refund Process
10. Eco system for GST and GST Suvidha Provider

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BOOK EXCLUSIVELY ON WORKS CONTRACT (SERVICE TAX AND VAT)

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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.

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