TAX CONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

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INCOME TAX

CUSTOMS

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EDITORIAL

Friends,

As we write this editorial, The Goods and Service Tax (GST) Council is has cleared the pending rules, including transition provisions and returns, with all states agreeing to a July 1 rollout of the new indirect tax regime. Transition rules have also been cleared and everybody has agreed for July 1 roll out. All states agreeing to the July 1 rollout assumes significance as West Bengal Chief Minister had said that her state will not roll out the new indirect tax regime in its present form.

The GST Council has already fitted over 1,200 goods and 500 services in the tax brackets of 5, 12, 18 and 28 per cent.

As for the transition rules approved by Council, the industry had been demanding some relaxation of the provision of deemed credit. The draft transition law provided that once GST is implemented a company can claim credit of up to 40 per cent of their Central GST dues for excise duty paid on stock held by businesses prior to the rollout.

We all wait whether the said rate is increased or not. It may effect the decision of dealers whether to buy or hold on to inventories. They have lobbied with the government seeking an increase in the credit limit.

Some state finance ministers have pushed for lower taxes on products and services that are key to their economies and many industry lobby groups are demanding concessions. Low-cost biscuit makers, hoteliers, fly ash brick producers and telecom service providers are among those seeking lower taxes.

Further, the Return Rules and Formats have been uploaded on www.cbec.gov.in . Users may please download the same from the website. The Brief of the said Rules are as follows –

1. Form and manner of furnishing details of outward supplies
2. Form and manner of furnishing details of inward supplies
3. Form and manner of submission of monthly return
4. Form and manner of submission of quarterly return by the composition supplier
5. Form and manner of submission of return by non-resident taxable person
6. Form and manner of submission of return by persons providing online information and database access or retrieval services
7. Form and manner of submission of return by an Input Service Distributor
8. Form and manner of submission of return by a person required to deduct tax at source
9. Form and manner of submission of statement of supplies through an e-commerce operator
10. Notice to non-filers of returns
11. Matching of claim of input tax credit

12. Final acceptance of input tax credit and communication thereof

13. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit

14. Claim of input tax credit on the same invoice more than once

15. Matching of claim of reduction in the output tax liability

16. Final acceptance of reduction in output tax liability and communication thereof

17. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction

18. Claim of reduction in output tax liability more than once

19. Refund of interest paid on reclaim of reversals

20. Matching of details furnished by the e-Commerce operator with the details furnished by the supplier

21. Communication and rectification of discrepancy in details furnished by the ecommerce operator and the supplier

22. Annual return

23. Final return

24. Details of inward supplies of persons having Unique Identity Number

25. Provisions relating to a goods and services tax practitioner

26. Conditions for purposes of appearance

We do hope that this initiative adds value to your professional sphere.

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

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 4th Jun, 2017 to 10th Jun, 2017	STATUTE
5th Jun, 2017	Service Tax deposit of previous month (Company/ Society), Finance Act	All India (The due date is 6th September for online payment)
	Deposit of WCT of previous month (VAT Act)	Kerala
7th Jun, 2017	Deposit of WCT of previous month (VAT Act)	Tripura
	TDS/TCS deposit of previous month (Income Tax Act)	All India
10th Jun, 2017	Deposit of WCT of previous month (VAT Act)	Chhattisgarh Madhya Pradesh West Bengal Nagaland Meghalaya Mizoram Arunachal Pradesh Assam Manipur
	Issuance of WCT certificate (VAT Act)	Chhattisgarh Karnataka Kerala Madhya Pradesh Manipur
	Deposit of Ptax of previous month (Commercial Tax Act)	Andhra Pradesh Madhya Pradesh
	Deposit of Entry tax of previous month (Entry Tax Act)	Chhattisgarh Madhya Pradesh
	Deposit of VAT of previous month (VAT Act)	Chhattisgarh Madhya Pradesh

ANALYSIS

SELF-SUPPLIES TAXABLE UNDER GST?

Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be subject to IGST even though such transactions may not involve payment of consideration.

However, intra-state self-supplies are not taxable subject to not opting for registration as business vertical.

COMPOSITE SUPPY

Composite Supply means a supply made by a taxable person

- comprising two or more supplies of goods or services, or any combination thereof, and,
- which are **naturally bundled** and supplied in conjunction with each other in the ordinary course of business, and
- one of which is a principal supply.

e.g. where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.

The tax liability on a composite supply shall be determined considering the principal supply as supply.

MIXED SUPPLY

Mixed Supply means supply by a taxable person

- comprising two or more individual supplies of goods or services or any combination thereof,
- made in conjunction with each other for a single price where such supply does not constitute a composite supply.

e.g. a supply of package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juice when supplied for a single price is a mixed supply.

Each of these items can be supplied separately and it is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

The tax liability on a mixed supply shall be determined considering the highest rated item of supply as supply.

Therefore, the difference between a composite and mixed supply is that in case of composite supply goods/services are naturally bundled and in case of mixed supply items are not dependent on each other.

ACTIVITIES WHICH ARE TREATED AS NEITHER A SUPPLY OF GOODS OR OF SERVICES

As per Schedule-III of the GST law the following activities shall neither be treated a supply of goods or supply of services:

(i) services by an employee to the employer in the course of or in relation to his employment,
(ii) services by any Court or Tribunal established under any law,
(iii) functions performed by members of Parliament, State Legislatures, members of the local authorities, Constitutional functionaries
(iv) services of funeral, burial, crematorium or mortuary and
(v) sale of land and
(vi) actionable claims other than lottery, betting and gambling shall be treated neither a supply of goods or supply of services

INPUT TAX CREDIT UNDER GST

ANALYSIS

SPECIAL PROVISIONS IN RESPECT OF BANKING COMPANIES

A banking company or a financial institution including a non-banking financial company engaged in supply of specified services would either avail proportionate credit or avail 50% of the eligible input tax credit.

MATCHING OF DETAILS PROVIDED BY THE RECEIPIENT AND SUPPLIER FOR ITC

Input tax credit is allowed provisionally for 2 months without any matching of details provided by the supplier and the recipient. After 2 months, the supply details are matched by the system and discrepancies are communicated to concerned supplier and recipient. If the mismatch is not rectified, then the amount will be added to the output liability of recipient in the return for the month succeeding the month in which discrepancy is communicated i.e. the ITC taken would be reversed automatically.

Note: The provisionally allowed ITC can be used only for the payment of self-assessed output tax in the return and not for any other liabilities.

TAX IMPLICATION OF SUPPLY OF CAPITAL GOODS ON WHICH ITC HAS BEEN TAKEN

In case of supply of capital goods or plant and machinery on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken reduced by the specified percentage points or the tax on the transaction value of such capital goods, whichever is higher.

In case of supply of refractory bricks, moulds and dies, jigs and fixtures as scrap, tax can be paid on the transaction value.

TREATMENT OF ITC AVAILED BY A REGISTERED PERSON WHO OPTS FOR COMPOSITION SCHEME IN THE GST REGIME

OR,

WHERE THE GOODS/SERVICES SUPPLIED BY HIM BECOME WHOLLY EXEMPT IN THE GST REGIME

The registered person shall pay an equivalent amount of input tax credit for stocks held on the date of exercise of option or date of exemption.

In respect of capital goods, the payable amount shall be calculated by reducing by a prescribed percentage point.

The payment can be made by debiting electronic credit ledger or electronic cash ledger. If any balance remains in the credit ledger, it shall lapse.

GST: GST Return, Payments & Refunds

ANALYSIS

DETAILS TO BE FILED IN GSTR-1 FORM

- A normal registered taxpayer has to monthly file the following outward supply details in GSTR-1:
  - outward supplies to registered persons,
  - outward supplies to unregistered persons (consumers), -details of Credit/Debit Notes,
  - zero rated, exempted and non-GST supplies,
  - exports, and
  - advances received in relation to future supply.

- Only certain prescribed fields of information from invoices need to be uploaded in the form.

- No scanned copy of invoices is required to be uploaded.

- For B2B supplies, all invoices, whether Intra-state or Inter- state supplies, will have to be uploaded. Because ITC will be taken by the recipients, invoice matching is required to be done.

- For B2C supplies, the buyer will not be taking ITC, however for the destination based principle,

  - Invoices for Inter-state supplies > Rs.2.5 lacs will have to be uploaded.

  - State wise summary will be sufficient for inter-state invoices below Rs. 2.5 lacs and all intra-state invoices

- Full description of the item will not have to be uploaded, Only HSN code for goods and Accounting code for services shall be fed.

- Both Value and taxable value of supplies have to be uploaded. In case of supply with no consideration, the taxable value will have to be worked out as prescribed and uploaded.

FEATURES OF GST PAYMENT PROCESS:

The payment processes under GST Act(s) have the following features:

- Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan;

- Paperless transactions;

- Electronic reconciliation of all receipts;

- Convenience of making payment online;

- Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;

- Logical tax collection data in electronic format;

- Faster remittance of tax revenue to the Government Account;

- Speedy Accounting and reporting;

- Simplified procedure for banks

- Warehousing of Digital Challan.

INVOICE, ACCOUNTS & AUDIT UNDER GST

ANALYSIS

TIME LIMIT FOR ISSUING TAX INVOICE

- In case of supply of services, tax invoice shall be issued within a period of 30 days from the date of supply of service.

- If the supplier of services is an insurer/banking company/financial institution, including a non-banking financial company, tax invoice shall be issued within a period of 45 days from the date of supply of service.

- Again, if the supplier is an insurer/banking company/a financial institution, including a non-banking financial company/telecom operator, or any other notified supplier making taxable supplies of services between distinct persons as per section 25 (Entry 2 of Schedule I), may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

MANNER OF ISSUING INVOICE

- The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner:–

- the original copy marked as ORIGINAL FOR RECIPIENT;
- the duplicate copy marked as DUPLICATE FOR TRANSPORTER; and
- the triplicate copy marked as TRIPLICATE FOR SUPPLIER.

- The invoice shall be prepared in duplicate, in case of supply of services, in the following manner:-
- the original copy marked as ORIGINAL FOR RECIPIENT; and
- the duplicate copy marked as DUPLICATE FOR SUPPLIER.

- The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in FORM GSTR-1.

SPECIAL AUDIT (SECTION 66)

- The department may order special audit if at any stage of scrutiny, inquiry, investigations or any other proceedings, he finds that the value has not been correctly declared or credit availed is not within the normal limits.

- Special Audit may be conducted if it comes to the notice that a case is complex or the revenue stake is high.

- The Assistant / Deputy Commissioner may serve the communication for special audit only after approval of the Commissioner.

- A Chartered Accountant or a Cost Accountant nominated by the Commissioner can only undertake the audit.

- The audit shall be completed and the report shall be submitted by the auditor within 90 days. This period may be extended by another 90 days.

- The audit expenses and auditor's remuneration shall be determined and borne by the Commissioner

- Based on the findings / observations of the special audit, action can be initiated under Section 73/74 of the CGST/SGST Act.

GST AUTHORITY INTERFACE- ASSESSMENT AND APPEAL

ANALYSIS

SUMMARY ASSESSMENT (SECTION 64)

- Summary Assessments can be initiated by the proper officer to protect the interest of revenue.
- It can be initiated only if the proper officer

- has evidence that a taxable person has incurred a liability to pay tax under the Act, and
- believes that delay in passing an assessment order will adversely affect the interest of revenue.

- Such order can be passed only after approval from the Additional Commissioner / Joint Commissioner.
- The taxable person against whom a summary assessment order has been passed can apply for withdrawal within 30 days of the date of receipt of the order. If the officer finds the order erroneous, he can withdraw it and direct determination of tax liability in terms of section 73 or 74 of CGST/SGST Act.
- If the Additional/Joint Commissioner finds the order erroneous, he on his own motion may order determination of tax liability in terms of section 73 or 74.
- In case where the taxable person in respect of goods cannot be ascertained (like when goods are under transportation or are stored in a warehouse), the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax.

REVISIONAL AUTHORITY (SECTION 108)

- "Revisional Authority" is an authority appointed or authorised for revision of decision or orders referred to in section 108.
- He may call for and examine any order passed by his subordinates.
- If he finds the order of the lower authority to be erroneous, illegal, improper and prejudicial to revenue or in consequence of an observation by the Comptroller and Auditor General of India, he can revise the order after giving opportunity of being heard to the noticee.
- He can also order for staying of operation of any order passed by his subordinates pending such revision.
- He shall not revise any order if

- the order has been subject to an appeal under section 107/112/117 or section 118; or
- the period specified under section 107(2) has not yet expired or more than 3 years have expired after the passing of the order sought to be revised.
- the order has already been taken up for revision under this Section at any earlier stage.

OTHER TOPICS UNDER GST

ANALYSIS

TRANSITIONAL PROVISIONS: SOME IMPORTATNT QUESTIONS BY THE TAXPAYERS IN THE GST REGIME

Q1: Capital goods purchased in the current regime but goods received after 30th June 2017, i.e. in GST regime. Will CENVAT credit be available?

Answer: Yes, cenvat credit will be available in 2017-18 provided credit was admissible in the existing law and is also admissible in CGST.

Q2: Is there any time limit for issue of debit/credit note(s) for revision of prices?

Answer: Yes, the debit/credit note(s) or a supplementary invoice shall be issued within 30 days of the price revision.

In case of downward revision, the tax liability shall stand reduced only if the recipient of the invoice/credit note has reduced his ITC – Section 142(2)

Q3: How will the pending refund of tax/interest under the existing law shall be treated?

Answer: The pending refund claims will be treated as per the provisions of the existing law – section 142(3).

Q4: How the pending appeals or revisions under the existing law shall be dealt with?

Answer: The appeal, revision, review, refund or reference wrt CENVAT/input tax credit or any output tax liability initiated before, on or after the appointed day, will be treated as per the existing law. However, any amount which becomes recoverable will have to be recovered as arrears of tax under the GST Law - Section 142(6)/142(7).

Q5: Which tax shall be payable for goods supplied in GST regime against contract entered under the existing law?

Answer: GST will be payable on such supplies.

Q6. Can the ITC relating to services received by ISD under the earlier law, be distributed in GST regime?

Answer: Yes, the ITC relating to services received by ISD under the earlier law, be distributed in GST regime irrespective of whether the invoice(s) relating to such services is received on or after the appointed day.

Q7. Will GST be payable on goods sent on approval not earlier than 6 months before the appointed day but are returned to the seller after 6 months from the appointed day?

Answer: Yes. Also, tax shall be payable by the person who has sent the goods on approval basis- Section 142(12).

INCOME TAXES

NOTIFICATION/CIRCULARS

NOTIFICATION OF ARIYAKUDI SRI SRINIVASA PERUMAL TEMPLE, KOTTIVAKKAM, CHENNAI, U/S 80G(2)(B) TO BE PLACE OF HISTORIC IMPORTANCE AND A PLACE OF PUBLIC WORSHIP

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 41/2017 dated 29.05.2017** has notified "Ariyakudi Sri Srinivasa Perumal Temple, Kottivakkam, Chennai," to be place of historic importance and a place of public worship of renown throughout the state of Tamil Nadu for the purposes of Section 80G(2)(b).

TDS AND FILING OF ITR IN CASE BOTH THE PARENTS OF A MINOR ARE DEAD

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 5/2017 dated 29.05.2017** has specified that in case of minors where both the parents have deceased, TDS on the interest income accrued to the minor is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA(2) of the I.T. Rules, 1962.

CLARIFICATION ON DECLARATION IN FORM 15G/15H TO BE FURNISHED TO THE DEDUCTOR/PAYER

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 6/2017 dated 30.05.2017** has clarified that the amended new forms 15G & 15H vide CBDT Notification No 76 dated 29th September, 2015 require the depositor to furnish the details of all investments up to that date including the current Fixed Deposit for which the Form 15G/15H is being given and which are to be listed in Form 15G/15H to enable the deductor/payer to ascertain, whether the Form 15G/15H can be accepted.

PROCEDURE FOR ACCEPTANCE OF SFT FROM SUB-REGISTRAR OFFICE AND POST OFFICES AS PER SECTION 285BA

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 7/2017 dated 30.05.2017** has laid down the following additional procedure for Acceptance of Statement of Financial Transactions from Sub-Registrar Office and Post Office:

a. The filer will bring Form 61A (XML file) in Computer media along with signed physical copy of control sheet of Form 61A at TIN-FC. The control sheet should be generated from the utility of Form 61A

b. TINFCs will then issue a temporary receipt.

c. XML file will be validated at NSDL e-Gov post which provisional receipt / Non Acceptance Memo will be sent to email address mentioned in the temporary receipt.

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. 49/2017-Customs (N.T.) dated 18.05.2017 & in supersession of Notification No. 43/2017-Customs (N.T.) dated 04.05.2017** 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. **19.05.2017** 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	48.55	46.80
2.	Bahrain Dinar	177.25	165.25
3.	Canadian Dollar	48.60	47.00
4.	Chinese Yuan	9.65	9.35
5.	Danish Kroner	9.95	9.55
6.	EURO	73.85	71.30
7.	Hong Kong Dollar	8.40	8.15
8.	Kuwait Dinar	219.85	205.60
9.	New Zealand Dollar	46.55	44.75
10.	Norwegian Kroner	7.80	7.50
11.	Pound Sterling	84.50	81.65
12.	Qatari Riyal	18.25	17.25
13.	South Arabian Riyal	17.80	16.65
14.	Singapore Dollar	47.35	45.90
15.	South African Rand	5.10	4.75
16.	Swedish Kroner	7.55	7.30
17.	Swiss Franc	67.75	65.50
18.	UAE Dirham	18.15	17.00
19.	US Dollar	65.35	63.70

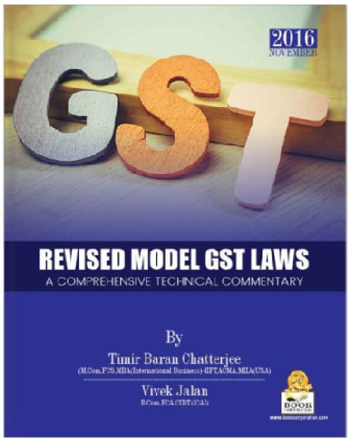
SCHEDULE-II

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	59.20	57.20
2.	Kenya Shilling	64.65	60.40

CHANGE IN 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. 51/2017-Customs (N.T.) dated 31.05.2017** has amended **Notification No.36/2001-Customs, dated 03.08.2001** and changed tariff value of edible oil, brass, poppy seed, areca nut, gold and silver by substituting tables, TABLE – 1, TABLE – 2 and TABLE – 3.

IN STANDS: REVISED MODEL GST LAWS : A COMPREHENSIVE TECHNICAL COMMENTARY



ABOUT THE BOOK: While the Government is moving at a rapid pace, yet it is still a question whether the Corporates are GST Ready or not. It is high time that the law needs to be analysed and implemented into every facet of the business including sales and marketing, Logistics, procurement, HR, IT and of course Finance and Taxation. The book contains an exhaustive coverage of the Revised Model GST in the form of a Section wise technical commentary. It provides an insight into the following:

1. Brief about the major changes between the Revised law and the earlier law.
2. Revised Model GST Law November 2016
3. Revised Model IGST Law November 2016
4. GST Compensation Law
5. GST Return Rules
6. GST RefundRules
7. GST Registration Rules
8. GST Payment Rules
9. GST Invoice Rules

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