TAX CONNECT
129th Issue:16 July 2017 - 22 July 2017

TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

BCC&I
THE BENGAL CHAMBER

INCOME TAX

CUSTOMS

TAX CONNECT
Kolkata: 1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
Gujarat: Quarter no. 3/174, Gujarat Refinery Township, Jawaharnagar, Vadodara-391320

Contact: +919331042424; +919831594980; +913322625203
Email: tb.chatterjee@yahoo.co.in;cavivekjalan@gmail.com

EDITORIAL

Friends,

We have received various queries from the time of release of The CGST Act regarding the release of our book. **We have launched our comprehensive book last week with all notifications till date.**

The book (in 2 Volumes) covers a Section on Procedures and Practice of GST along with GST Acts, Rates, Notifications and HSN Guide. The brief overview of the book are mentioned in the last page of this bulletin!

Further, last week Ministry of Finance clarified many of the issues regarding difficulties being faced by the suppliers under GST. We have discussed some the issues as under:

Services provided by housing societies resident welfare association (RWA) will not become expensive under the GST regime.

RWA will be required to pay GST on monthly subscription/contribution charged from its members if such payment is more than Rs 5,000 /member per month and the annual turnover of RWA by way of supplying of services and goods is more than Rupees Twenty lakhs. In the GST regime, businesses with turnover of up to Rs 20 lakh are exempt. Further, if the aggregate turnover of such RWA is up to Rupees Twenty lakh in a financial year, then such supplies will be exempted from GST, even if charges per member are more than Rs 5,000.

However, RWAs supplying of services and goods aggregating more than Rupees Twenty lakh per annum will attract 18% GST.

Input tax credit (ITC) of central excise and VAT paid on goods and capital goods was not available in the pre-GST period and these were a cost to the RWA.

Under GST, the tax burden on RWAs will be lower for the reason that they would now be entitled to ITC in respect of taxes paid by them on capital goods (generators, water pumps, lawn furniture), goods (taps, pipes, other sanitary/hardware fillings) and input services such as repair and maintenance services.

Thus, there is no change made to services provided by the Housing Society (RWA) to its members in the GST era.

Services provided by an educational institution to students, faculty and staff are fully exempt from GST.

Services provided by an educational institution to students, faculty and staff are fully exempt.

There will be no GST on annual subscription/fees charged as lodging/boarding charges by educational institutions from its students for hostel accommodation.

18% GST will be levied on annual subscription/fees charged for lodging in hostels, there is no change in tax liability relating to education and related

EDITORIAL

services in the GST era, except reduction in tax rate on certain items of education.

Educational institution has been defined as:

- an institution imparting pre-school education and education up to higher secondary school or equivalent, education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force, education as a part of an approved vocational education course.

Thus, services of lodging/boarding in hostels provided by such educational institutions which are providing pre- school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST.

Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.

Traders and businesses will have to display the GST registration number on their business sign boards and the registration certificate in premises.

The Goods and Services Taxpayer Identification Number (GSTIN) is a 15-digit number which taxpayers get after registering with the GST network portal Initially, a business is given a provisional ID on logging into the portal and within 3 months the business has to complete the registration process by giving details of business. This provisional ID is then converted to GSTIN.

Composition dealers will have to mention that they are availing the composite scheme and are not entitled to collect taxes from people.

The composition dealer is required to mention in the business premises along with registration certificate that he is not entitled to collect tax from taxpayers.

That is the legal requirement. So that the citizen can find out whether the person from whom he is buying is entitled to collect tax from him or not

Every taxable person is required to display his GSTIN number on name board or sign board of business and is also required to display his registration certificate in business premises so that a citizen can easily find out whether a person is registered or not.

If a business entity does not generate certificate of registration within 90 days then the provisional ID will stand cancelled.

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

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, LL.B, B. Com (Hons.)

SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 16th July, 2017 to 22nd July, 2017	CGST/SGST/IGST/UTGST/Others
NO DUE DATES UNDER GST IS AVAILABLE FOR THIS WEEK.		

GST: IGST

NOTIFICATIONS/CIRCULARS

CENTRAL GOODS AND SERVICES TAX ACT, 2017 TO THE STATE OF JAMMU AND KASHMIR

OUR COMMENTS: The Legislative Deptt., Ministry of Law and Justice, Government of India vide **Notification No. 3 /2017-Central Tax dated 08.07.2017,** the Central Government notified the following:

An Ordinance to provide for the extension of the Integrated Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

This Ordinance may be called the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.

The Central Goods and Services Tax Act, 2017 and all rules, notifications, schemes and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

CGST Circulars

LIST OF PROPER OFFICER FOR PROVISIONS RELATING TO REGISTRATION AND COMPOSITION LEVY UNDER THE CGST ACT AND RULES 2017.

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 1/1/2017-Central Tax dated 26.06.2017** the Central Government circulated the following:

List of Proper officer for provisions relating to Registration and Composition levy under the Central Goods and Services Tax Act, 2017 or the rules made thereunder.

ISSUES RELATED TO FURNISHING OF BOND/ LETTER OF UNDERTAKING FOR EXPORTS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 2/2/2017-Central Tax dated 04.07.2017** the Central Government circulated the following:

This circular is regarding issue of difficulties being faced while supplying the goods/ services for export without payment of integrated tax and filing the FORM GST RFD-11 on the common portal, because of which exports are being held up **AND** regarding issue being raised by various stakeholders is that the Bond/Letter of Undertaking is required to be given through the proper officer which is to be furnished to the jurisdictional Commissioner as per sub-rule (1) of rule 96A of the said rules.

This circular is also Taking cognizance of the fact that a large number of such Bonds/Letter of Undertakings would be required to be filed by the registered exporters who would be located at a distance from the office of the jurisdictional Commissioner, it is understood that the furnishing of such bonds/undertakings before the jurisdictional Commissioner may cause hardship to the exporters.

Thus, in exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, 2017, it is hereby stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules shall be done by the jurisdictional Deputy/Assistant Commissioner.

Further, in exercise of the powers conferred by section 168 of the said Act, for the purpose of uniformity in the implementation of the said Act, the Bond/Letter of Undertaking required to be furnished under rule 96A of the said rules may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal.

The exporters may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner.

The above specified provisions shall be applicable to all applications which have been filed on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

NOTIFICATIONS/CIRCULARS

INTEGRATED GOODS AND SERVICES TAX ACT, 2017 TO THE STATE OF JAMMU AND KASHMIR

OUR COMMENTS: The Legislative Deptt., Ministry of Law and Justice, Government of India vide **Notification No. 4 /2017-Integrated Tax dated 08.07.2017,** the Central Government notified the following:

An Ordinance to provide for the extension of the Integrated Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

This Ordinance may be called the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.

The Integrated Goods and Services Tax Act, 2017 and all rules, notifications, schemes and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

CLARIFICATION ON INTER-STATE MOVEMENT OF VARIOUS MODES OF CONVEYANCE, CARRYING GOODS OR PASSENGERS OR FOR REPAIRS AND MAINTENANCE

OUR COMMENTS: The Tax Research Unit (Department of Revenue), Ministry of Finance, Government of India vide **Circular No.1/1/2017-IGST dated 07.07.2017,** the Central Government clarified the following:

The issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts carrying:

- goods or
- passengers or
- both of the above; or
- for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance]

discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that following inter-state movement shall be treated '**neither as a supply of goods or supply of service**' and therefore not be leviable to IGST.

The legal provisions in GST laws are as under:

i) As per section 24 (1) (i) of the Central Goods and Services Tax Act, 2017, persons making any inter-State taxable supply shall be required to be registered under this Act.

ii) As per section 25(4) of the said Act a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

iii) Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

iv) Section 7 (2) envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

In view of above, it is hereby clarified that "the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

SGST - JAMMU AND KASHMIR - NOTIFICATION

The Jammu and Kashmir Legislative Assembly passed the state GST Bill 2017 amidst opposition boycott, making it the last state of the country to join the new tax regime.

OUR COMMENTS: The Finance Department, Government of Jammu and Kashmir vide **Notifications dated 08.07.2017** has notified the following:

J & K Notifications

Notification No.	Notification Date	Subject
SRO - GST – 1	08-07-2017	NOTIFICATION REGARDING THE RATE OF JAMMU AND KASHMIR GST ON ALL INTRASTATE SUPPLIES OF GOODS OR SERVICES.
SRO - GST – 2	08-07-2017	LIST OF EXEMPTED GOODS (INTRASTATE SUPPLIES)
SRO - GST – 3	08-07-2017	LIST OF EXEMPTED GOODS USED ON OPERATIONS (INTRASTATE SUPPLIES)
SRO - GST – 4	08-07-2017	LIST OF GOODS ON WHICH GST IS TO BE PAID ON REVERSE CHARGE BASIS.
SRO - GST – 5	08-07-2017	NO REFUND OF UNUTILIZED INPUT TAX CREDIT
SRO - GST – 6	08-07-2017	CANTEEN STORES DEPARTMENT ENTITLEMENT
SRO - GST – 7	08-07-2017	EXEMPTION TO THE SUPPLY OF GOODS BY THE CSD
SRO - GST – 8	08-07-2017	EXEMPTION ON INTRA-STATE SUPPLIES OF GOODS OR SERVICES OR BOTH RECEIVED BY A REGISTERED PERSON
SRO - GST – 9	08-07-2017	EXEMPTION ON INTRA-STATE SUPPLIES OF GOODS OR SERVICES OR BOTH RECEIVED BY A DEDUCTOR
SRO - GST – 10	08-07-2017	EXEMPTION ON INTRA-STATE SUPPLIES OF SECOND HAND GOODS RECEIVED BY A REGISTERED
SRO - GST – 11	08-07-2017	STATE TAX, ON THE INTRA-STATE SUPPLY OF SERVICES
SRO - GST – 12	08-07-2017	LIST OF EXEMPTED SERVICES.
SRO - GST – 13	08-07-2017	LIST OF SERVICES ON WHICH STATE TAX SHALL BE PAID ON REVERSE CHARGE BASIS BY THE RECIPIENT OF THE SUCH SERVICES
SRO - GST – 14	08-07-2017	ACTIVITIES OR TRANSACTIONS UNDERTAKEN BY THE CENTRAL GOVERNMENT OR STATE GOVERNMENT OR ANY LOCAL 17AUTHORITY IN WHICH THEY ARE ENGAGED
SRO - GST – 15	08-07-2017	NO REFUND OF UNUTILIZED INPUT TAX CREDIT IN CASE OF SUPPLY OF SERVICES SPECIFIED
SRO - GST – 16	08-07-2017	REFUND IN CASE OF (I)UNITED NATIONS , FOREIGN DIPLOMATIC MISSION OR CONSULAR POST IN INDIA, OR DIPLOMATIC AGENTS OR CAREER CONSULAR OFFICERS POSTED THEREIN
SRO - GST – 17	08-07-2017	FOLLOWING CATEGORIES OF SERVICES, THE TAX ON INTRA-STATE SUPPLIES SHALL BE PAID BY THE ELECTRONIC COMMERCE OPERATOR
SRO – 279	08-07-2017	COMPOSITION SCHEME UNDER THE JAMMU AND KASHMIR GOODS AND SERVICES TAX
SRO – 281	08-07-2017	DATE OF APPOINTMENT OF THE JAMMU AND KASHMIR GOODS AND SERVICES TAX

OTHER TOPICS UNDER GST

Analysis

GIFTS UP TO A VALUE OF RS 50,000/- PER YEAR BY AN EMPLOYER TO HIS EMPLOYEE ARE OUTSIDE THE AMBIT OF GST.

Gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business.

However, Gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST.

What constitutes a gift?

Gift has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Another issue is the taxation of perquisites.

It is pertinent to point out here that the services by an employee to the employer in the course of/ in relation to his employment are outside the scope of GST (i.e. neither supply of goods or supply of services).

It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST.

Further, the Input Tax Credit (ITC) Scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer.

The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

Analysis

SEVEN MISCONCEPTIONS ABOUT GST

Myths relating to GST and Reality of each one is given below:

Myth 1: Do I need to generate all invoices on computer/ internet only.
Reality 1: Invoices can be generated manually also.

Myth 2: I need internet all the time to do business under GST.
Reality 2: Internet would be needed only while filing monthly return of GST.

Myth 3: I have provisional ID but waiting for final ID to do business.
Reality 3: Provisional ID will be your final GSTIN number. So start business.

Myth 4: My item of trade was earlier exempt so I will need new registration before starting business now.
Reality 4: You can continue doing business and get registered within 30 days.

Myth 5: There are 3 returns per month to be filed.
Reality 5: There is only 1 return with 3 parts, out of which first part is to be filed by dealer and two other parts would be auto populated by computer.

Myth 6: Even small dealers will have to file invoice wise details in the return.
Reality 6: Those in retail business (B2C) need to file only summary of total sales.

Myth 7: New GST rate is higher compared to earlier VAT.
Reality 7: It appears higher because excise duty and other taxes which were invisible earlier are now subsumed in GST and so visible now.

ANALYSIS

NOTIFICATIONS/CIRCULARS

INCOME –TAX (18TH AMENDMENT) RULES, 2017.

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Corrigendum Notification No.60/ 2017, dated 06.07.2017** has notified the following:

The Central Board of Direct Taxes hereby make changes in the Income –tax (18th Amendment) Rules, 2017 further to amend the Income-tax Rules, 1962.

INCOME-TAX (20TH AMENDMENT) RULES, 2017, W.E.F. 01.04.2018.

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No.61/ 2017, dated 12.07.2017** has notified the following:

The Central Board of Direct Taxes hereby makes the Income –tax (20th Amendment) Rules, 2017 further to amend the Income-tax Rules, 1962.

In the notification, method of Determination of fair market value of unquoted equity shares and other than a quoted share has been specified.

NO PENALTY FOR FILING OF RETURN AFTER 31ST JULY 2017 BUT BEFORE 31ST MARCH 2018.

In present circumstances, if the ITR for Financial Year 2016-17 is not filed before 31stJuly 2017 then, only an interest is applicable on the amount of tax, and no ad hoc penalty is applicable on the returns filed after 31st July.

A new section 234F has been inserted by the government in the Income Tax Act. As per this section: an individual would have to pay a fee of up to Rs 10,000 for filing income tax return after the due dates specified in section 139(1) of the Income Tax Act.

- The fee to be levied is based on the time period of delay which is as follows:

  i) A fee of Rs 5,000 in case returns are filed after the due date but before the December 31 of the relevant assessment year or
  ii) Rs. 10,000 in case it is filed after December 31 of the relevant assessment year.

However, as a relief to the taxpayers earning not more than Rs 5 lakh, the maximum penalty will be Rs. 1000.

Further, this fee is applicable **with effect from April 1, 2018** and will not apply for returns filed for FY2016-17 for which the deadline is July 31, 2017.

Extract of the aforesaid section is hereby quoted as under:

"Following section 234F shall be inserted after section 234E by the Finance Act, 2017, w.e.f. 1-4-2018:

Fee for default in furnishing return of income.

234F. (1) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (1) of the said section, he shall pay, by way of fee, a sum of,—

(a) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

(b) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(2) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018."

CUSTOMS

NOTIFICATIONS/CIRCULARS

LIST OF TARIFF NOTIFICATIONS ISSUED UNDER CUSTOMS ACT.

OUR COMMENTS: The (Dept. of Revenue), Ministry of Finance, Government of India vide **Notifications – Customs,** has notified the following:

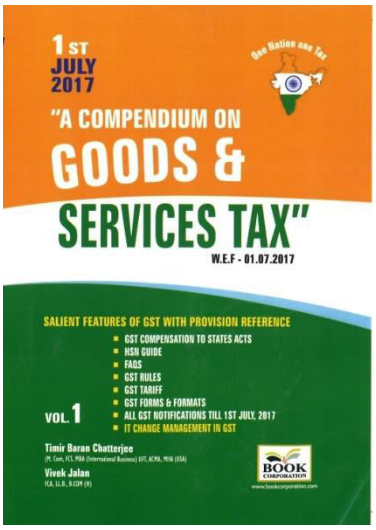
Customs (Tariff) Notifications

Notification No.	Notification Date	Subject
26/2017	28-06-2017	Amended Customs Exemption notifications for various export promotion schemes.
27/2017	30-06-2017	Rescind the notifications relating to Exemption from duty to bona-fide gifts (excluding alcoholic drinks) imported through courier or falling under Heading No. 98.04.
28/2017	30-06-2017	Rescinds the Exemption notifications relating to duty to Freight incurred on transshipment of containerised cargo.
29/2017	30-06-2017	Grant exemption to specimen, models, wall pictures and diagrams received as gifts.
30/2017	30-06-2017	Grant exemption to motion pictures, music, gaming software.
31/2017	30-06-2017	Grant exemption to re-import of unclaimed postal articles.
32/2017	30-06-2017	Grant exemption to works of Art and books, being antiques of an age exceeding one hundred years.
33/2017	30-06-2017	Grant exemption to re-import of challenge cup and trophies, won by Defence units.
34/2017	30-06-2017	Grant exemption to Tags and labels, or printed bags of foreign origin imported for repairs and return.
35/2017	30-06-2017	Grant exemption to Aviation Turbine Fuel in tanks of aircrafts by Indian Airlines, United Arab Airlines and Indian Air Force.
36/2017	30-06-2017	Grant exemption to imports by Vice-President.
37/2017	30-06-2017	Grant exemption to imports relating to Defence and internal security forces.
38/2017	30-06-2017	Grant exemption to re-import of engines and parts of aircraft.
39/2017	30-06-2017	Amend notification No. 3/57 – Customs dated 30th June 2017 dated 8th January 1957 so as to provide exemption to imports by Diplomats, trade Representatives.
40/2017	30-06-2017	Grant exemption to imports from Bhutan and Nepal from Basic Customs dated 30th June 2017 Duty.
41/2017	30-06-2017	Grant exemption to Challenge cups, trophies and medals and prizes etc. won by Indian players.
42/2017	30-06-2017	Amend notification Nos. 102/2007 dated the 14th September, 2007 (Exemption granted to Additional Customs duty on imported goods), 4/99 dated the 8th January 1999 (Exemption to Passenger bus and spares, fuel and consumables thereof imported into India from Pakistan and Bangla desh) AND 172/1994 dated the 30th September 1994, (Effective rate of duty on Silver imported by a passenger of Indian Origin or a passenger holding a valid passport issued under the Passport Act, 1967 (15 of 1967) as baggage).

AVAILABLE IN STANDS

A COMPENDIUM ON GOODS & SERVICES TAX

(Including ALL Notifications till 09th July, 2017)



ABOUT THE BOOK: PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. Section-wise Compilation of IT Changes under GST
2. The GST Rates as finalised by The GST Council along with the HSN Code Referencer.
3. FAQs on GST
4. CGST, IGST, UTGST and The GST Compensation to States Acts
5. The Rules related to GST available in public Domain as on 17th June 2017.
6. The Forms and formats related to GST available in public Domain as on 17th June 2017.

Authors:

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

Vivek Jalan
FCA, LL.B., B.Com (Hons.)

Published by:
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com