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INCOME TAX

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EDITORIAL

Friends,

Various queries have been received with respect to Export by means of LUT or Bond especially with respect to exports to Nepal, Bhutan and SEZ developer/ SEZ unit.

We have just made an effort to compile the clarifications on some common issues:

Issue 1. Who is eligible to export under Letter of Undertaking scheme (LUT) scheme?

Clarification: As per *Notification No. 16/2017 – Central Tax dated 7-7-2017*, any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than Rs. one crore.

This means that **only such exporters are eligible to LUT facilities who have received a remittance of Rs. one crore or 10% of export turnover, whichever is a higher amount, in the previous financial year.**

It may however be noted that a **status holder** as specified in paragraphs 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.

Issue 2. What is the form for furnishing LUT?

Clarification: LUTs are generally **submitted on the letterhead containing signature and seal of the person** or the person authorized in this behalf as provided in said Notification.

Issue 3. Who will be the Jurisdictional officer for submission of LUT/Bond?

Clarification: It has been clarified in **Circular Nos. 2/2/2017 – GST dated 4th July, 2017 and 4/4/2017 – GST dated 7th July, 2017** that Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter.

The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. **It is reiterated that the Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.**

Issue 4. What is the expected time for acceptance of LUT/Bond?

Clarification: As LUT/bond is a priority requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted **within a period of three working days from the date of submission of LUT/bond** along with complete documents by the exporter.

Issue 5. What will be the treatment of purchases from manufacturer and form CT-1 under GST?

Clarification: The scheme holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond.

Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/ bond or payment of IGST.

Issue 6. What is the GST impact on transactions with EOUs?

Clarification: supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

EDITORIAL

Therefore, Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them.

Issue 7. What are the different requirements of furnishing bank guarantee under GST regime for export?

<u>**Clarification:**</u> **Circular No. 4/4/2017 dated 7th July, 2017** provides that bank guarantee should normally not exceed **15% of the bond amount**. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case.

It is expected that this provision would be implemented liberally. Some of the instances of liberal interpretation are as follows:

a) An exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council.

b) In the GST regime, registration is State-wise which means that the expression 'registered person' used in the said notification may mean different registered persons (distinct persons in terms of sub-section (1) of section 25 of the Act) if a person having one Permanent Account Number is registered in more than one State. It may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and accountal of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

Issue 8. What is the requirement for documents for LUT ?

<u>**Clarification**</u>: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise.

For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of **Notification No. 16/2017 - Central tax dated 7th July, 2017.**

Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient

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

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

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 27th August, 2017 to 02nd September, 2017	Name of State
28th Aug	**Business opting to avail Transaction ITC to discharge July month's tax liabilities needs to file FORM GSTR-3B by 28th August, 2017**	India
28th Aug	**Business Availing Transitional ITC to discharge July tax liability need to file FORM GST Tran-1 by 28th August, 2017. This need to be submitted before filing FORM GSTR-3B.**	India

GST: CGST

NOTIFICATIONS/CIRCULARS

AMENDMENT IN GST RATES OF COMPOSITE SUPPLY OF WORKS CONTRACT

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 20/2017-Central Tax (Rate)**, **dated 22nd August, 2017** hereby makes amendments in **Notific**ation **No. 11/2017-Central Tax (Rate), dated the 28th June, 2017,** relating to the tax rate of composite supply of work contract, transport of passengers by motorcab, Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use), Renting of motorcab where the cost of fuel is included in the consideration charged from the service recipient, Services by way of any treatment or process on goods belonging to another person, in relation to-(a) printing of newspapers;(b) printing of books (including Braille books), journals and periodicals, Manufacturing services on physical inputs (goods), Services by way of printing of newspapers, books (including Braille books), journals and periodicals, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer, manufacturing services; publishing, printing and reproduction services; materials recovery services.

EXEMPTION OF SERVICES PROVIDED BY FAIR PRICE SHOPS GOVERNMENT AND FIFA FOR FIFA U-17

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 21/2017- Central Tax (Rate), dated 22nd August, 2017** hereby makes the amendments in the **Notification No. 12/2017- Central Tax (Rate), dated 28th June, 2017** regarding the exemption of services provided by Fair Price Shops to Government and those provided by and to FIFA for FIFA U-17.

Further Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme", the words, brackets and letters "Restructured Weather Based Crop Insurance Scheme (RWCIS)", shall be substituted; and explanation for LLP has been inserted as-A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm.".

AMENDMENT IN REVERSE CHARGE MECHANISM PROVISIONS FOR GOODS TRANSPORT AGENY

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 22/2017- Central Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 13/2017- Central Tax (Rate), dated 28th June, 2017** relating to Reverse Charge Mechanism (RCM) for GAT and to insert explanation for LLP.

RESPONSIBILITY OF ELECTRONIC COMMERCE OPERATOR FOR PAYMENT OF GST

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 23/2017-Central Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 17/2017-Central Tax (Rate), dated 28th June, 2017** relating to the responsibility of ECO for payment of GST on services provided by way of housekeeping plumbing, carpentering etc except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the said Central Goods and Services Tax Act.".

GST: IGST

NOTIFICATIONS/CIRCULARS

REDUCTION OF IGST RATES ON SPECIFIED PART OF TRACTORS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No.19/2017- Integrated Tax (Rate), dated 18th August, 2017** hereby reduces the rate of IGST on specified parts of tractors from 28% to 18%.

REDUCTION OF RATES OF IGST ON SPECIFIED SERVICES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 20/2017-Integrated Tax (Rate), dated 22nd August, 2017** hereby makes amendments in Notification No. 8/2017-Integrated Tax (Rate), dated 28th June, 2017 relating to the rates of IGST on specified services.

Further it has been notified that IGST rates on specified supplies of Works Contact Services, job work for textile & textile products, printing services of books, newspapers etc, admission to planetarium, and also to provide option to GTA & transport of passenger by motor cab services providers to avail full ITC & discharge IGST @ 12% .

EXEMPTION OF SERVICES PROVIDED BY FAIR PRICE SHOPS GOVERNMENT AND FIFA FOR FIFA U-17

OUR COMMENTS: **The Department of Revenue, Ministry of Finance, Government of India vide Notification No. 21/2017-Integrated Tax (Rate), dated 22nd August, 2017 hereby makes amendments in the Notification No. 9/2017-Integrated Tax (Rate), dated 28th June, 2017** regarding the exemption of services provided by Fair Price Shops to Government and those provided by and to FIFA for FIFA U-17.

Further Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme", the words, brackets and letters "Restructured Weather Based Crop Insurance Scheme (RWCIS)", shall be substituted; and explanation for LLP has been inserted as-A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm.".

AMENDMENT IN REVERSE CHARGE MECHANISM PROVISIONS FOR GOODS TRANSPORT AGENY

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 22/2017- Integrated Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 10/2017- Integrated Tax (Rate), dated 28th June, 2017** relating to Reverse Charge Mechanism (RCM) for GTA and to insert explanation for LLP.

RESPONSIBILITY OF ELECTRONIC COMMERCE OPERATOR FOR PAYMENT OF GST

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 23/2017-Integrated Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 14/2017-Central Tax (Rate), dated 28th June, 2017** relating to the responsibility of ECO for payment of GST on services provided by way of housekeeping plumbing, carpentering etc except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the said Central Goods and Services Tax Act.".

NOTIFICATIONS/CIRCULARS

AMENDMENT IN REVERSE CHARGE MECHANISM PROVISIONS FOR GOODS TRANSPORT AGENY

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Delhi vide **Notification No. 22/2017- Union Territory Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 13/2017- Union Territory Tax (Rate), dated 28th June, 2017** relating to Reverse Charge Mechanism (RCM) for GTA and to insert explanation for LLP.

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Rajasthan vide **Notification No. [F.12 (56) FD/Tax/2017-79 Rajasthan- SGST dated 22nd August, 2017** hereby makes amendments in the **Notification No. F.12(56) FD/Tax/2017-Pt-I-51 Rajasthan- SGST** dated the 29th June, 2017, relating to Reverse Charge Mechanism (RCM) for GTA and to insert explanation for LLP.

RESPONSIBILITY OF ELECTRONIC COMMERCE OPERATOR FOR PAYMENT OF GST

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Delhi vide **Notification No. 23/2017- Union Territory Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 17/2017- Union Territory Tax (Rate), dated 28th June, 2017** relating to the responsibility of ECO for payment of GST on services provided by way of housekeeping plumbing, carpentering etc except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the said Central Goods and Services Tax Act.".

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Rajasthan vide **Notification No.** F.12(56)/FD/Tax/2017-80 - Rajasthan SGST dated 22nd August, 2017 hereby makes amendments in the **Notification No. F.12(56)FD/Tax/2017-Pt-I-55 dated the 29th June, 2017**relating to the responsibility of ECO for payment of GST on services provided by way of housekeeping plumbing, carpentering etc except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the said Central Goods and Services Tax Act.".

EXEMPTION OF SERVICES PROVIDED BY FAIR PRICE SHOPS GOVERNMENT AND FIFA FOR FIFA U-17

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Delhi vide **Notification No. 21/2017- Union Territory Tax (Rate), dated 22nd August, 2017** hereby makes amendments in the **Notification No. 9/2017-Integrated Tax (Rate), dated 28th June, 2017** regarding the exemption of services provided by Fair Price Shops to Government and those provided by and to FIFA for FIFA U-17.

Further Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme", the words, brackets and letters "Restructured Weather Based Crop Insurance Scheme (RWCIS)", shall be substituted; and explanation for LLP has been inserted as-A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm.".

REDUCTION OF RATES OF UTGST ON SPECIFIED SERVICES

OUR COMMENTS: The Commercial Tax Department of Delhi, Government of Delhi vide **Notification No. 20/2017-Union Territory Tax (Rate), dated 22nd August, 2017 hereby** makes amendments in **Notification No. 11/2017- Union Territory Tax (Rate), dated 28th June, 2017** relating to the rates of IGST on specified services.

Further it has been notified that IGST rates on specified supplies of Works Contact Services, job work for textile & textile products, printing services of books, newspapers etc, admission to planetarium, and also to provide option to GTA & transport of passenger by motor cab services providers to avail full ITC & discharge IGST @ 12%.

ANALYSIS

LINK OF PAN CARD WITH ADHAR CARD

Aadhar card is an important and safest identity proof of any individual because it also includes finger prints of the concerned person.

Therefore, if an AADHAR card has been issued to a person, it cannot be issued again, because data base would reveal that a card has been issued with the finger prints now placed for a new card.

Linking of AADHAR with PAN can therefore be very important for genuineness of the PAN card holder vis a vis natural person for whom AADHAR card is issued.

AADHRA can be considered as best proof so far identity is concerned of an individual. However it may not be fool proof in relation to address. If there is a change in address but it has not been changed in AADHAR, the AADHAR will continue with old address.

Similarly if someone has obtained AADHAR card with a wrong address, the same will continue, unless corrected by efforts of card holder.

In fact author knows some persons, in his neighbourhood, who have shifted to other place long ago and are not living in the neighbourhood of author, but have obtained AADHAR based on address at which they are not living. Old AADHAR card issued with address (where they do not live) are still continuing.

Therefore, there should be a system and procedure by which one can complain about address being wrongly used by AADHAR card holder for some ulterior purposes like keeping disputes relating to property, tenancy, etc.

AADHAR authority was requested to inform procedure to complain in this regard, but they have not been able to give a proper reply and matter is pending since 06.10.2016 the last reply received from authority is as follows:

In another case on the AADHAR card issued to a lady it is found that instead of D/O abbreviation mentioned is W/O before name of her father and in address also some superficial words have been added which were not in the application. This causes wrong AADHAR card.

For rectification help was sought by writing an email but no reply has been received.

Therefore, we find that there are some shortcomings in issue of AADHAR, which need to be resolved quickly.

These illustration shows that AADHAR card are being issued in haste and without proper care and more care is required. Therefore, reasonable time must be allowed for application, verification and issue of AADHAR and its linking with PAN.

<u>Why litigation on issue of linking PAN with AADHAR:</u>

There should not be litigation on issue of linking of PAN with AADHAR. Making AADHAR compulsory for individuals cannot be called an unjust requirement.

In fact, linking of PAN with AADHAR of a designate representative of other assesses like HUF, firms, companies, societies etc. should also be implemented.

<u>Issue of privacy</u>:

There should not be an issue about privacy in relation to AADHAR card or PAN card. The information furnished in respect of both cards are not such which require privacy. For example there should not be objection about full description (that is name, male , female or other gender, father's name , mother's name or husband's name , address and phone numbers). These information are provided in many documents in day to day life. Then why there is agitation for providing such information in AADHAR record.

NOTIFICATIONS/CIRCULARS

INCOME TAX 22ND AMENDMENTS RULES, 2017

<u>OUR COMMENTS</u>: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION NO. 80/2017, dated 18th August, 2017** hereby makes the 22nd amendments in Income Tax Rules, 2017 and substituted the Form no. 29B relating to Report under section 115JB of the Income-tax Act, 1961 for computing the book profits of the company.

CUSTOMS

NOTIFICATIONS/CIRCULARS

IMPOSITION OF ANTI-DUMPING DUTY ON "TEXTURED TOUGHENED (TEMPERED) GLASS"

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 38/2017-Customs (ADD**, dated **18th August, 2017** hereby imposes anti-dumping duty on "Textured Toughened (Tempered) Glass" origination in or exported from China PR.

Further it has been notified that the anti-dumping duty imposed shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

For detailed description of rate chart, readers may refer the above mentioned notification.

MODIFICATION OF THE AMOUNT OF ANTI-DUMPING DUTY ON IMPORT OF CAUSTIC SODA

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION No. 39/2017-Customs (ADD), dated 23rd August, 2017** hereby makes amendments in the **Notification No.49/2012-Customs (ADD), dated 26th November, 2012,** relating to anti-dumping duty on import of caustic soda, originating in or exported from Saudi Arabia, Iran, Japan and United States of America.

EXEMPTION FROM CUSTOM DUTY

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 73/2017-Customs, dated 18th August, 2017** hereby makes amendments in the **Notification No. 60/2011-Customs, dated 14th July, 2011** relating to exemption of specified goods from customs duty for sale of Balat, Kalaichar, Srinagar (Tripura) or Kamalsagar (Tripura) border haats at Indo-Bangladesh border.

Further this notification shall apply to goods produced in Bangladesh and brought into India from such border haat by an individual in such quantities which are reasonable for bona fide personal or family consumption and having an estimated total value not exceeding US$ 200 during a day.

ALL INDUSTRY RATES (AIRS) DUTY DRAWBACK

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 79/2017 - CUSTOMS (N.T.)**, dated **17th August, 2017** hereby makes amendments in **Notification No. 131/2016 - CUSTOMS (N.T.), dated 31st October, 2016** relating to All Industry Rates (AIRs) of Duty Drawback on Gold Jewellery , Silver Jewellery and Silver Articles.

MANDATORY E-PAYMENT OF CUSTOM DUTY

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 80/2017 - CUSTOMS (N.T.), dated 17th August, 2017** hereby hereby specify the classes of importers who shall pay customs duty electronically, namely:-

i. importers registered under Authorised Economic Operator Programme; and
ii. importers paying customs duty of ten thousand rupees or more per bill of entry.

RATE OF EXCHANGE OF CONVERSION OF FOREIGN CURRENCIES

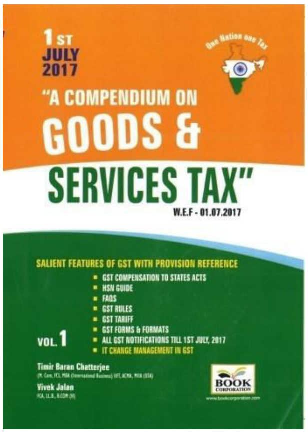
OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 81/2017 - Customs (N.T.), dated 17th August, 2017,** hereby declares that the rate of exchange of conversion of foreign currency or vice versa which will be applicable with effect from 18th August, 2017 for the purpose of import and export of goods.

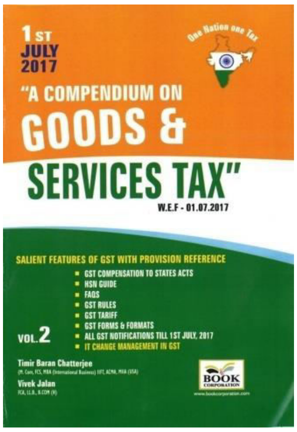
For detailed description of rate chart readers may refer the above mentioned notification.

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.

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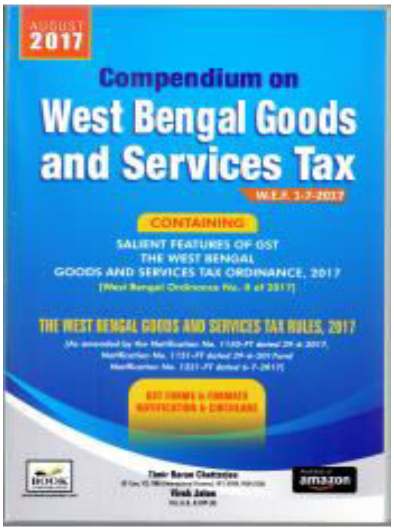
AVAILABLE IN STANDS

A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX

(Including ALL Notifications till date)



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1. The Rules related to WBGST available in public Domain till date.

2. The Notifications, Circulars and Orders issued by The SGST Authority till date.

3. The Forms and formats related to GST available in public Domain till date.

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