TAX CONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

BCC&I
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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@taxconnect.co.in; vivek.jalan@taxconnect.co.in

EDITORIAL

Friends,

A word of encouragement for exporters came vide PRESS RELEASE of The Finance Ministry on 22nd September 2017 whereby it stated that The Committee on Export set up by the GST Council has discussed various methods of resolving the issue of blockage of funds for the exporters. In addition it has held the following –

1. A way is being found out for giving refund by linking form GSTR 1 with form GSTR 3B and, therefore, for the month of July, where form GSTR 1 is already filed, the authorities would be in a position to process the refund applications.

2. The exporters, who have not yet filed form GSTR 1 for July 2017, may be advised to file it immediately and not to wait till the deadline.

3. GSTN application for refund is also getting ready. But, in the meantime, other ways of giving refund, if necessary through a manual procedure, are also being devised.

Further, amid much ado and confusion, the Govt has finally issued Order No. 03/2017-GST Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117 of the Central Goods and Services Tax Rules, 2017.

Furthermore vide Notification No. 88/ 2017-CUSTOMS, the Govt has issued the drawback rules. The salient features of the rules are as follows –

1. They shall come into force on the 1 st day of October, 2017

2. A drawback may be allowed on the export of goods at such amount, or at such rates, as may be determined by the Central Government

   It is to be noted that the Central Government has determined the rates of drawback in Notification No. 89/2017-CUSTOMS (N.T.).

3. It provides for Determination of date from which the amount or rate of drawback is to come into force and the effective date for application of amount or rate of drawback

4. It provides for procedure for dealing with Cases where amount or rate of drawback has not been determined

5. It provides for procedure for dealing with Cases where amount or rate of drawback determined is low

6. It specifies that no amount or rate of drawback shall be determined in respect of any goods or class of goods if the export value of each of such goods or class of goods is less than the value of the imported materials used in the manufacture, or is not more than such percentage of the value of the imported materials used in the manufacture as may be specified.

7. The drawback amount or rate determined shall not exceed one third of the market price of the export product

8. It specifies the Procedure for claiming drawback on goods exported by post as follows -
   a. the outer packing carrying the address of the consignee shall also carry in bold letters the words “DRAWBACK EXPORT”.
   b. the exporter shall deliver to the competent Postal Authority, alongwith the parcel or package, a claim in the Form at Annexure I.

c. The date of receipt of the aforesaid claim form by the proper officer of Customs from the postal authorities shall be deemed to be date of filing of drawback claim by the exporter for the purpose of section 75A.
d. In case of any deficiency in the form, the exporter shall be informed of the deficiencies therein within 15 days of its receipt from postal authorities by a deficiency memo in the form prescribed.
e. The exporter shall comply with the requirements specified in the deficiency memo within 30 days of its return.

9. It specifies the Statement/Declaration to be made on exports other than by Post as follows –
   a. At the time of export of goods, the exporter shall state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback, and if so, at what rate or rates and make a declaration on the relevant shipping bill or bill of export
   b. A copy of shipment invoice or any other document giving particulars of the description, quantity and value of the goods to be exported, shall be given

10. It specifies the manner and time for claiming drawback on goods exported other than by post

11. It provides for the process of filing Supplementary claim.

12. Where an amount of drawback has been paid to an exporter but the sale proceeds in respect of such export goods have not been realised within the period allowed under FEMA, such drawback shall be recovered in the manner specified.

In Customs, vide Notification No.90/2017 - Customs (N.T.), the Central Board of Excise and Customs has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa, with effect from 22nd September, 2017.

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

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

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

SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 24th September, 2017 to 30rd September, 2017	Description
28th Sep	**GST TRAN-1**	Declaration for Carry forward of Input Tax Credits into the new GST regime To be filed within 90 days of the appointed date i.e. **Transitional ITC / Stock Statement**.
30th Sep	**GST CMP-01**	Intimation to pay tax under section 10 of CGST Act, 2017 (**Composition levy**).

GST: CGST

NOTIFICATIONS/CIRCULARS

EXEMPTION FROM OBTAINING REGISTRATAION TO SUPPLIERS OF HANDICRAFT GOODS

OUR COMMENTS: The CBEC (Deptt. of Revenue) Ministry of Finance, Government of India vide **NOTIFICATION No. 32/2017–Central Tax , dated 15th September, 2017** on the recommendations of the Council, notified granting exemption to a casual taxable person making taxable supplies of handicraft goods from the requirement to obtain registration.

NOTIFYING SECTION 51 OF THE CGST ACT, 2017 FOR TDS

OUR COMMENTS: The CBEC (Deptt. of Revenue) Ministry of Finance, Government of India vide **NOTIFICATION No. 33/2017–Central Tax , dated 15th September, 2017** hereby appoints the 18th September, 2017 as the date on which the provisions of sub-section (1) of section 51 **(Tax deduction at source)** of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified in the notification under clause (d) of subsection (1) of section 51 of the said act.

Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government.

SEVENTH AMENDMENT IN CGST RULES, 2017

OUR COMMENTS: The CBEC (Deptt. of Revenue) Ministry of Finance, Government of India vide **NOTIFICATION No. 34/2017–Central Tax , dated 15th September, 2017** notified Central Goods and Services Tax (Seventh Amendment) Rules, 2017 w.e.f. 15th day of September, 2017.

Major highlights of the amendments:

- Rule 3(3A) has been inserted.
- Rule 120A has been inserted.
- Rule 124(3) has been substituted.
- Second proviso has been inserted in Rule 124(4).
- Second proviso has been inserted in Rule 124(5).
- Clause (iv) has been inserted in Rule 127.
- First and Second proviso has been inserted in Rule 138(1).
- Form GST TRAN-1 has been amended, w.e.f. 01st July, 2017.
- Form GSTR-4 has been amended w.e.f. 01st July, 2017.
- Fifth Note has been inserted in FORM GST EWB-01.

TIME LIMIT FOR FILLING OF GSTR3B FOR AUGUST TO DECEMBER 2017

OUR COMMENTS: The CBEC (Deptt. of Revenue) Ministry of Finance, Government of India vide **NOTIFICATION No. 35/2017–Central Tax , dated 15th September, 2017** on the recommendations of the GST Council, hereby specifies that the return for the month of August, 2017 to December, 2017 shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified in the corresponding entry in column (3) of the following Table,.

Sl. No.	Month	Last Date for filing of return in FORM GSTR-3B
(1)	(2)	(3)
1.	August, 2017	20th September, 2017
2.	September, 2017	20th October, 2017
3.	October, 2017	20th November, 2017
4.	November, 2017	20th December, 2017
5.	December, 2017	20th January, 2018

Payment of taxes for discharge of tax liability as per FORM GSTR-3B:

Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as detailed in column (3) of the said Table, on which he is required to furnish the said return.

GST: IGST

NOTIFICATIONS/CIRCULARS

CGST RATE ON SPECIFIED SUPPLIES OF WORKS CONTRACT SERVICES IS REDUCED.

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 24/2017–Integrated Tax (Rate), dated 21st September, 2017** on the recommendations of the GST Council and on being satisfied that it is necessary in the public interest so to do, hereby makes amendments in the **Notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017** to reduce CGST rate on specified supplies of Works Contract Services.

EXEMPT RIGHT TO ADMISSION TO THE EVENTS ORGANISED UNDER FIFA U-17 WORLD CUP 2017

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 25/2017–Integrated Tax (Rate), dated 21st September, 2017** on the recommendations of the GST Council and on being satisfied that it is necessary in the public interest so to do, hereby makes amendments in the **Notification No. 9/2017- Integrated Tax (Rate), dated the 28th June, 2017** to insert the Chapter 9996 having description *"Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017"* in the list of NIL rated services to exempt right to admission to the events organised under FIFA U-17 World Cup 2017.

EXEMPT CERTAIN SUPPLIES TO NPCIL

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 26/2017–Integrated Tax (Rate), dated 21st September, 2017** on being satisfied that it is necessary in the public interest so to do, and the recommendations of the GST Council hereby exempts *inter-state supply of heavy water and nuclear* fuels by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd (NPCIL) from the whole of the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017 (13 of 2017).

ANALYSIS

SMALL TRADERS CAN OPT FOR GST COMPOSITION SCHEME TILL 30 SEPTEMBER

The GST Network, or GSTN, the company that processes GST returns, on Sunday offered two more weeks for small traders who missed an earlier opportunity to sign up for a liberal compliance scheme involving quarterly return filings.

As per GSTN **'composition scheme' for traders with up to Rs75 lakh annual sales is now open till 30 September.** Those who opt for this can file returns on a quarterly basis unlike the others who have to file returns on a monthly basis. The earlier window for signing up for the scheme had ended on 16 August, 2017.

Those who sign up before 30 September will get the benefit of the scheme from 1 October,2017 until which they will be treated as normal assessees.

The decision to extend a second opportunity for those who missed out was taken at the last GST Council chaired by finance minister Arun Jaitley on 9 September in Hyderabad.

Under the scheme, small businesses, manufacturers and restaurants will be subject to a GST rate of 0.5%, 1% and 2.5% respectively on turnover.

"The composition scheme has been designed to simplify and reduce the burden of compliance for smaller taxpayers. Businesses opting for the scheme will see a lesser compliance burden as they will have to file returns only once in a quarter.

Giving small businesses another opportunity to opt for quarterly payments is likely to ease the burden on the IT infrastructure supporting GST, which has faced several glitches.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXEMPTION FROM OBTAINING REGISTRATAION TO SUPPLIERS OF HANDICRAFT GOODS

OUR COMMENTS: The Finance Department, Government of Gujarat vide **NOTIFICATION No. 32/2017–State Tax , dated 15th September, 2017** notified Handicraft goods exemption for obtaining registration.

APPOINTED DATE FOR TAX DEDUCTION AT SOURCE UNDER GST

OUR COMMENTS: The Finance Department, Government of Gujarat vide **NOTIFICATION No. 33/2017–State Tax , dated 15th September, 2017** hereby appoints the 18th September, 2017 as the date on which the provisions of sub-section (1) of section 51 **(Tax deduction at source)** of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified in the notification under clause (d) of subsection (1) of section 51 of the said act.

Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Government of Gujarat.

SEVENTH AMENDMENT IN GUJARAT GOODS AND SERVICES TAX RULES, 2017

OUR COMMENTS: The Finance Department, Government of Gujarat vide **NOTIFICATION No. 34/2017–State Tax , dated 15th September, 2017** notified Gujarat Goods and Services Tax (Seventh Amendment) Rules, 2017 w.e.f. 15th day of September, 2017.

Major highlights of the amendments are as under:

- Rule 3(3A) has been inserted.
- Rule 120A has been inserted.
- Rule 124(3) has been substituted.
- Second proviso has been inserted in Rule 124(4).
- Second proviso has been inserted in Rule 124(5).
- Clause (iv) has been inserted in Rule 127.
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- Form GST TRAN-1 has been amended, w.e.f. 01st July, 2017.
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TIME LIMIT FOR FILLING OF GSTR3B FOR AUGUST TO DECEMBER 2017

OUR COMMENTS: The Finance Department, Government of Gujarat vide **NOTIFICATION No. 35/2017–State Tax , dated 15th September, 2017** specifies that the return for the month of August, 2017 to December, 2017 shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified in the notification.

Payment of taxes for discharge of tax liability as per FORM GSTR-3B:

Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as detailed in column (3) of the said Table, on which he is required to furnish the said return.

INCOME TAXES

COURT DECISIONS

COMMISSIONER OF INCOME TAX (TDS) VERSUS M/S SAHARA INDIA COMMERCIAL CORPORATION LTD

Brief: The assessee cannot be held to be **"assessee in default"** merely for the reason that it has failed to deduct tax or has short deducted tax and for that reason alone the assessing authority cannot raise demand of tax from the assessee.

Our Comments: In the above case, the assessing authority finds that the recipient assesses was not liable to pay any tax during the relevant assessment year or has actually paid tax but, failed to deduct tax or has short deducted tax.

The Hon'ble Supreme court held that If the assessing authority finds that the recipient-assesses, was not liable to pay any tax during the relevant assessment year or has actually paid tax, the assessee cannot be held to be "assessee in default" merely for the reason that it has failed to deduct tax or has short deducted tax and for that reason alone the assessing authority cannot raise demand of tax from the assessee.

[Decided in favour of assessee]

COMMISSIONER OF INCOME TAX-I BARODA VERSUS GUJARAT ALKALIES & CHEMICALS LTD.

Brief: Expenses incurred for replacement of membrane cells-II - **nature of expenditure - revenue v/s capital expenditure**. It hardly matters whether the amount is more or less for deciding the nature of expenses.

Our Comments: In the given case, issue under consideration was that the expenses incurred for replacement of membrane cells-II - nature of expenditure - revenue v/s capital expenditure - rule of consistency as Revenue itself treated such expenditure as revenue expenditure.

The Hon'ble GUJARAT HIGH COURT held that the attempt to contend that life of membrane would be spread over from 3 to 5 years or that the amount involved for replacement of membrane is huge and, therefore, the departure on the part of the Revenue could be said as justified.

The Hon'ble Supreme Court held that the decision of the High Court cannot be countenance for two reasons :

- One is that the amount involved would not make difference for chargability of the tax but the nature of expenditure would be relevant for the chargability of tax It hardly matters whether the amount is more or less.
- Further, on the aspect of life of the membrane, nothing is referred to by the A.O. nor by C.I.T. (Appeals) that earlier, such aspect, namely, life of the membrane spread over from 3 to 5 years was not considered or it had missed or otherwise.

[Decided in favour of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No.87/2017 - Customs (N.T.), dated 15th September, 2017** hereby notified Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

For detailed description of chapter/heading/sub-heading/tariff item, description of goods and Tariff value, readers may refer the above mentioned notification.

RATE OF EXCHANGE OF CONVERSION OF FOREIGN CURRENCY

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No.90/2017 - Customs (N.T.), dated 21st September, 2017** hereby determines that the rate of exchange of conversion of each of the foreign currencies specified into Indian currency or vice versa, shall, with effect from 22nd September, 2017, for the purpose relating to imported and export goods.

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

GOODS IMPORTED FOR ORGANISING FIFA UNDER 17, WORLD CUP, 2017 EXEMPTED.

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 75/2017-Customs, dated 13th September, 2017** hereby issued notification to exempt goods imported for organising FIFA under 17, world cup, 2017.

ANTI-DUMPING DUTY ON IMPORT OF TYRES USED IN BUSES AND LORRIES/TRUCKS, ORIGINATING IN OR EXPORTED FROM CHINA PR.

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 45/2017-Customs (ADD), dated 18th September, 2017** hereby in order to remove injury to the domestic industry imposes definitive anti-dumping duty on the "New/unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres) having normal rim dia code above 16'', used in buses and lorries/trucks," falling under tariff item 4011 20 10 of the First Schedule to the Customs Tariff Act, 1975.

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.

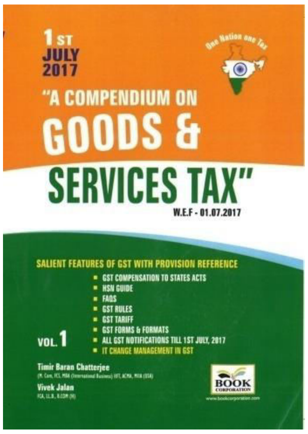
The designated authority has recommended the imposition of definitive anti-dumping duty on the imports of such goods, originating in or exported from the China PR and imported into India, in order to remove injury to the domestic industry; The decision for imposing such duty has been taken on the basis of final findings by designated authority and come to the conclusion that-

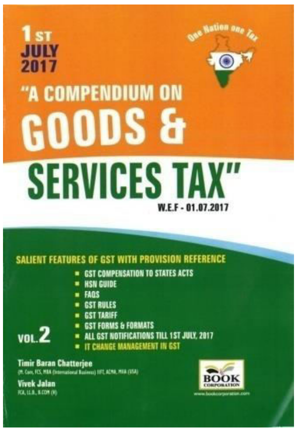
i. The product under consideration has been exported to India from the subject country below normal value;
ii. The domestic industry has suffered material injury on account of subject imports from the subject country;
iii. The injury has been caused by the dumped imports of the subject goods from the subject country ;

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