TAXCONNECT

142nd Issue: 22nd October 2017 - 28th October 2017

TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

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INCOME TAX

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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

In this bulletin we are raising a very critical point for consideration which is leading to a severe financial hardship for the business of Insurance Agents.

There are many Insurance Agents who are engaged in providing insurance Agency and auxiliary services of procurement of insurance business for the insurance companies. For providing the said services, they receive a commission from the insurance Companies.

They also maintain large number of offices across the country to reach to the nearest people in the city/village to market the insurance products. In the process they incur huge cost both in terms of goods and services.

In terms of Notification No. 13/2017-Central Tax (Rate) and 10/2017 – Integrated Tax (Rate) issued under both CGST Act 2017 and IGST Act 2017 respectively, services supplied by an insurance agent including Corporate Agent to any person carrying on insurance business are liable to GST under reverse charge in the hands of the person carrying on insurance business, that is to say the insurance companies. Now, in the course of providing such services, such Insurance Agents procure various types of services and goods from their vendors on which they either pay GST to the provider of such services or goods or discharge GST under reverse charge mechanism if so required under the law.

Example of few such Goods/Services purchased by these agents is Renting of property, security services, telephone, business travel, stationery, audit fee, consultancy charges, manpower procurement charges, etc. The quantum of such GST paid by the agents (especially Corporate Agents) for the purpose of providing output services is quite large.

Now, since output services of insurance agents are under RCM and paid by the Insurance Companies, these

Corporate Insurance Agents cannot avail the ITC of the GST paid on goods/services purchased by them in the course of providing the output services. Consequently all ITC become a part of their cost.

Needless to say it is a huge financial hardship for these insurance agents and against basic structure of GST system.

Since the provision covers insurance auxiliary services by insurance agents, a large number of corporate agents who are fully organized also stand covered by such provision and therefore the GST in respect to the said services being provided by them are taxed under RCM in hand of the insurance companies

It is therefore just that the insurance auxiliary services being supplied by corporate agents may also be brought under forward charge or at least an option be given to these corporate insurance agents to come under forward charge just like GTAs.

We do hope that The GST Council looks into this issue and rectifies it. Further there is no loss to anyone including the Government if this option is provided. Also since this option is already available in case of GTA, it can always be replicated.

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 22nd October, 2017 to 28th October, 2017	Description
	NO DUE DATE FOR RETURNS FILING HAS BEEN ANNONCED BY GOV. OF INDIA FOR THE PERIOD OF 22ND OCTOBER 2017 TO 28TH OCTOBER 2017	

GST: CGST

NOTIFICATIONS/CIRCULARS

SEEKS TO CROSS-EMPOWER STATE TAX OFFICERS FOR PROCESSING AND GRANT OF REFUND

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 39/2017 - Central Tax dated 13th October 2017** notifies that the officers appointed under the respective SGST Act, 2017 or UTGST Act, 2017 who are authorized to be the proper officers for the purposes of section 54 or section 55 of CGST Acts by the Commissioner of CGST Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

SEEKS TO MAKE PAYMENT OF TAX ON ISSUANCE OF INVOICE BY REGISTERED PERSONS HAVING AGGREGATE TURNOVER LESS THAN RS 1.5 CRORES

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 40/2017 - Central Tax dated 13th October 2017** notifies that the registered person whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees or the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than one crore and fifty lakh rupees and who did not opt for the composition levy under section 10 of CGST Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made there under and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

EXTENDS THE TIME LIMIT FOR FILING OF FORM GSTR-4

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 41/2017 - Central Tax dated 13th October 2017** hereby extends the time limit for furnishing the return by a composition supplier, in **FORM GSTR-4**, under section 39(2) of the said Act with rule 62 of the Central Goods and Services Tax Rules, 2017 for the quarter July to September, 2017 till the 15th day of November, 2017.

EXTENDS THE TIME LIMIT FOR FILING OF FORM GSTR-5A

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 42/2017 - Central Tax dated 13th October 2017** hereby extends the time limit for furnishing the return in **FORM GSTR-5A** for the month of July, 2017, August, 2017 and September, 2017 by a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 and rule 64 of the Central Goods and Services Tax Rules, 2017, till the 20th day of November, 2017.

GST: IGST

NOTIFICATIONS/CIRCULARS

EXEMPTS PERSONS MAKING INTER-STATE SUPPLIES OF TAXABLE SERVICES FROM REGISTRATION UNDER SECTION 23(2)

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 10/2017 - Integrated Tax dated 13th October 2017** hereby notifies that the persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year as the category of persons exempted from obtaining registration.

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of "special category States" as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.

SEEKS TO CROSS-EMPOWER STATE TAX OFFICERS FOR PROCESSING AND GRANT OF REFUND

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 11/2017 - Integrated Tax dated 13th October 2017** hereby notifies that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 20 of the IGST Act, except rule 96 of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

GST RATE ON FOOD PREPARATIONS PUT UP IN UNIT CONTAINERS AND INTENDED FOR SPECIFIC PURPOSES DULY APPROVED BY THE C.G. OR ANY S.G. REDUCED.

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide Notification No. 40/2017-Integrated Tax (Rate), dated 18th October 2017 has notified reduced GST rate Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXTENSION OF TIME LIMIT FOR SUBMITTING GSTR-4 FOR THE QUARTER JULY TO SEPTEMBER, 2017

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Notification No. 41/2017 – State Tax dated 13th October 2017** hereby extends the time limit for furnishing the return by a composition supplier, in **FORM GSTR-4**, under sub-section (2) of section 39 of the said Act with rule 62 of the West Bengal Goods and Services Tax Rules, 2017 for the quarter July to September, 2017 till the 15th day of November, 2017.

FURTHER EXTENSION OF TIME LIMIT FOR SUBMITTING GSTR-6 FOR THE MONTHS OF JULY, AUGUST AND SEPTEMBER, 2017

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Notification No. 43/2017 – State Tax dated 13th October 2017** hereby extends the time limit for furnishing the return by an Input Service Distributor in **FORM GSTR-6** under sub-section (4) of section 39 of the said Act with rule 65 of the West Bengal Goods and Services Tax Rules, 2017 for the months of July, 2017, August, 2017 and September, 2017 till the 15th day of November, 2017.

EXTENSION OF TIME LIMIT FOR MAKING A DECLARATION IN GST ITC- 01 FOR THE MONTHS OF JULY, AUGUST AND SEPTEMBER, 2017

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Notification No. 44/2017 – State Tax dated 13th October 2017** hereby extends the time limit for making a declaration, in FORM GST ITC-01, by the registered persons, who have become eligible during the months of July, 2017, August, 2017 and September, 2017, to the effect that they are eligible to avail the input tax credit under sub-section (1) of section 18 of the said Act, till the 31st day of October, 2017.

SUPPLY OF SERVICES ASSOCIATED WITH TRANSIT CARGO TO NEPAL AND BHUTAN

OUR COMMENTS: The Commercial Tax Department, Government of Bihar vide **Notification No. 30/2017-State Tax (Rate)** makes amendment in **Notification No.12/2017- State Tax (Rate), dated the 29th June, 2017** hereby notified that Supply of services associated with transit cargo to Nepal and Bhutan has been inserted in the Table with its respective HSN code and rate.

CHANGES OF STATE TAX RATES ON THE INTRA-STATE SUPPLY OF SERVICES

OUR COMMENTS: : The Commercial Tax Department, Government of Bihar vide **Notification No. 31/2017-State Tax (Rate)** hereby makes the amendments in the **Notification No.11/2017- State Tax (Rate), dated the 29th June, 2017,** by inserting following items in the Table:-

- Construction services
- Composite supply of works contract as defined in clause (119) of section 2
- Transport of passengers
- Transportation of natural gas through pipeline
- Goods transport services
- Renting of any motor vehicle
- Leasing of motor vehicles
- Financial and related services
- Leasing or rental services
- Services by way of job work
- Services by way of printing of all goods

NOTIFICATIONS/CIRCULARS

DEDUCTIONS UNDER SECTION 10B OF INCOME TAX ACT, 1961 TO EXPORT FOR 100% EOU

OUR COMMENTS: Section 10B of the Income Tax Act, 1961 provides special provisions in respect of newly established 100% Export Oriented Undertakings.

Section 10B(1) provides that subject to the provisions of this section, a deduction of such profits and gains as are derived by a 100% export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee.

Where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years. For the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software.

No deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2012 and subsequent years and also to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.

Section 10B (2) provides that this section applies to any undertaking which fulfils all the following conditions, namely-

- it manufactures or produces any articles or things or computer software
- it is not formed by the splitting up, or the reconstruction, of a business already in existence
- it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

TDS IS PART OF SUM PAYABLE TO PAYEE AND IS TRADING LIABILITY- INTEREST PAID FOR DELAYED DEPOSIT OF TDS IS ALLOWABLE EXPENDITURE

OUR COMMENTS: TDS/TCS are part of sum payable for business expenses. Deposit of TDS/ TCS results into payment to payee who get credit for TDS/ TCS deposited. In case of delay in deposit of TDS/ TCS, interest is payable for such late deposit. This is in relation to business expenditure. Therefore, interest paid for delay in deposit of TDS/ TCS is also a business expenditure. Several aspects of TDS/TCS are :-

- TDS and TCS are part of trading or business operations:
- TDS is part payment of business expenditure or trading liability:
- TDS can also be at lower rate:
- TDS is against personal liability of tax payable by payee:
- Tax deductor has separate and independent personal liability to pay his income-tax
- Interest payable to employee, supplier service provider is allowable.

CUSTOMS

NOTIFICATIONS/CIRCULARS

CUSTOMS TO PRESCRIBE BCD AND IGST RATES ON CERTAIN GOODS

OUR COMMENTS: The (Dept. of Revenue),Ministry of Finance, Government of India vide **Notification No. 77/2017-Customs, dated 13th October, 2017** makes amendments in the **Notification No. 50 /2017 –Customs, dated 30th June, 2017** hereby notifies that certain items are inserted and Customs need to prescribe BCD and IGST rates on those certain goods.

EXEMPTION TO GOODS IMPORTED BY EOUS FROM INTEGRATED TAX AND COMPENSATION CESS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 78/2017-Customs, dated 13th October, 2017** makes amendments in the **Notification No. 52/2003-Customs, dated 31st March, 2003** notifies that certain conditions which are prevailing have been substituted by the following :-

(A) The whole of the duty of customs leviable thereon under the First-Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty, if any, leviable thereon under sub-sections (1), (3) and (5) of section 3 of the said Customs Tariff Act

(B) The integrated tax and compensation cess leviable thereon under sub-sections (7) and (9), respectively of section 3 of the said Customs Tariff Act:

Provided that nothing contained in clause (B) above shall apply on or after the 1st day of April, 2018.

TARIFF NOTIFICATION IN RESPECT OF 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. 95/2017-Customs (N.T) dated 13th October 2017** makes amendments in the **Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001** notifies that Tariff Value has been fixed on Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

IMPOSES DEFINITIVE ANTI-DUMPING DUTY ON THE IMPORTS OF "WIRE ROD OF ALLOY OR NON- ALLOY STEEL" ORIGINATING IN OR EXPORTED FROM CHINA PR

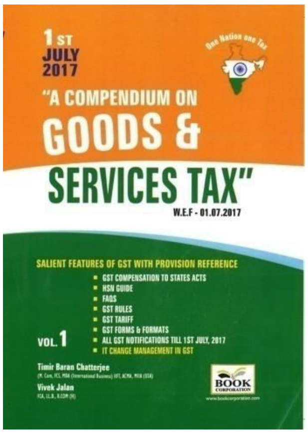
OUR COMMENTS: The (Dept. of Revenue),Ministry of Finance, Government of India vide **Notification No. 48/2017-Customs (ADD), dated 09th October, 2017**makes amendments in the **Notification No. 51/2016-Customs (ADD) dated the 2nd November, 2016** hereby notifies an imposition of definitive anti-dumping duty on imports of the "Wire Rod of Alloy or Non-Alloy Steel" originating in, or exported from China PR and imported into India, in order to remove injury to the domestic industry.

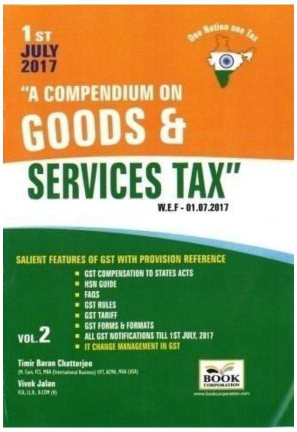
The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of anti-dumping duty, that is, the 2nd November, 2016 and shall be payable in Indian currency.

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
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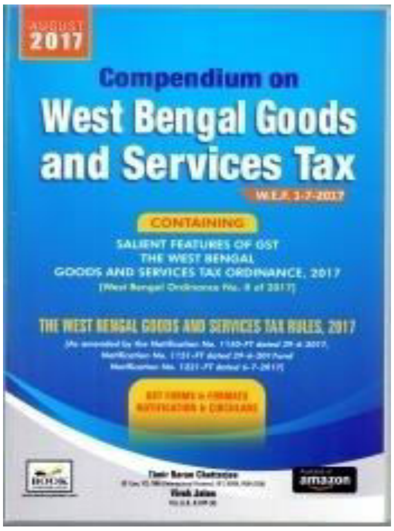
AVAILABLE IN STANDS

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.

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