TAX CONNECT
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TAX CONNECT

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The Bengal Chamber of Commerce & Industry

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INCOME TAX

CUSTOMS

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EDITORIAL

Friends,

Goods and Services Tax (GST), introduced from July 1, 2017 is now about 150 days old and has resulted in operational and implementation issues affecting all stakeholders. GST law, as drafted and legislated, is not free from the interpretational hassles. Taxpayers have started challenging various provisions of GST laws and rules framed there under. High courts have taken a liberal stand so far in view of the fact that law is new and is yet evolving. However, CBEC may move to supreme court where the verdict is against the Government.

Here are few judicial pronouncements for information and guidance of various stakeholders. It is expected that the litigation is bound to go up as time passes by.

- In case the assessee was registered as sole proprietor instead of partnership firm, it was held and directed to the department that the necessary GST ID/ password in the name of partnership firm shall be issued within a period of two weeks and the registration certificate be corrected within a week thereafter.

- In case the assessee supplied goods to customer of Punjab, which it brought from its warehouse situated outside State of Punjab to its delivery hub located in Punjab and mentioned its TIN of Punjab in VAT -36 return, it was held that the said supply shall have to be treated as inter-state supply.

- In case the assessee on enforcement of GST regime got itself migrated for purposes of GST as a partnership firm, but Adjudicating Authority had registered it as a sole proprietorship, it was held that Adjudicating Authority shall have to rectify this mistake.

- In case the period for applying under Composition Scheme was extended upto 30.9.2017, it was held that those assessees who could not apply under Composition Scheme upto 16.8.2017, their applications would be accepted and shall have effect from 1.7.2017.

- In case the assessee was permitted to avail benefit of a Scheme issued under UP Entertainments and Betting Tax Act, 1979 even after shift to GST regime with effect from 1.7.2017 as there is no notification repealing the benefit as in the past till 31.3.2020 and to retain percentage of it, subject to final disposal of writ.

- In case the assessee has already paid clean energy cess on purchase of coal, it was held that the assessee may be given credit for such payment and will not be required to make any further payment under GST for effecting sales and clearances, subject to the furnishing of proof of such payment by assessee to officers.

<u>Applicability of IGST/GST on goods transferred/sold while being deposited in a warehouse</u>

As per **Circular No. 46/2017-Customs, Dated- 24th November, 2017** Government has clarified the Applicability of IGST/GST on goods transferred / sold while being deposited in a custom bonded warehouse.

Customs Act provides for deposit of goods into a customs bonded warehouse licensed under Section 57 or 58 or 58A without payment of duty and the procedures to be followed with respect to the warehoused goods.

EDITORIAL

Sub-section (5) of section 59 provides that the importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.

It is to be noted that the value of imported goods, for purposes of charging customs duty, is determined as per section 14 of the Customs Act, 1962 at the time of import i.e. at the time of filing of the into-bond Bill of Entry.

Any costs incurred after the import of goods, such as, port charges / port demurrage charges or costs for customs clearing or transporting the goods from the port to the customs bonded warehouse or costs of storage at the customs bonded warehouse, cannot be added to the value of the goods, for the purpose of levy of duties of customs at the stage of ex-bonding.

Further, Section15 (1)(b) of the Customs Act provides that the rate of duty or tariff valuation for an ex-bond Bill of Entry shall be the date on which it is filed.

There is no provision to vary the assessable value of the goods at the ex-bond stage unless they are such goods on which tariff valuation applies. Therefore, duties of customs (BCD + IGST) shall be paid on the imported goods at the stage of ex-bonding on the value determined under section 14 of the Customs Act.

However, the transaction of sale / transfer etc. of the warehoused goods between the importer and any other person may be at a price higher than the assessable value of such goods. Such a transaction squarely falls within the definition of "supply" as per section 7 of the CGST Act, 2017 and shall be taxable in terms of section 9 of the CGST Act read with section 20 of IGST Act.

It may be noted that as per sub-section (2) of section 7 of the IGST Act, any supply of imported goods which takes place before they cross the customs frontiers of India, shall be treated as an inter-State supply. Thus, such a transaction of sale/transfer will be subject to IGST under the IGST Act. The value of such supply shall be determined in terms of section 15 of the CGST Act read with section 20 of the IGST Act and the rules made thereunder, without prejudice to the fact that customs duty (which includes BCD and applicable IGST payable under the Customs Tariff Act) will be levied and collected at the ex-bond stage.

Thus, in respect of goods stored in a customs bonded warehouse, there is a possibility that certain cases may involve an additional taxable event, if a transfer of ownership of warehoused goods takes place between the importer and another person, before clearance of the goods, whether for home consumption or for export.

In other words, when goods remain deposited in a customs bonded warehouse and are transferred by the importer to another person, the transaction will be subject to payment of IGST at the value determined as per section 20 of the IGST Act read with section 15 of the CGST Act, 2017 and the rules made thereunder and the tax liability shall be reckoned as per section 9 of the CGST Act, 2017.

However, it may be noted that so long as such goods remain deposited in the warehouse the customs duty to be collected shall remain deferred.

Further, it is only when such goods are ex-bonded under section 68, shall the deferred duty be collected, at the value as had been determined under section 14 of the Customs Act, 1962 in addition to IGST leviable.

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 26th November, 2017 to 02nd December, 2017	Description
30th Nov 2017	Income Tax Form: 64A	Annual statement (of income distributed during the financial year 2014-2015) by business trust to be electronically submitted to the Principal Commissioner /Commissioner
30th Nov 2017	Income Tax Form: 64	Statement of Income distribution by venture capital company or venture capital fund in respect of income distributed during 2014-2015
30th Nov 2017	Income Tax Return (ITR)	Due date of filing of return in the case of an assessee, which is required to furnish a report referred to in section 92E

NOTIFICATIONS/CIRCULARS

CHANGES CGST RATES FOR SUPPLY OF SERVICES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 46/2017 - Central Tax (Rate)dated the 14th November, 2017** hereby makes amendments in the **Notification No. 11/2017- Central Tax (Rate), dated 28th June, 2017** regarding the rates of supply of services under CGST Act, 2017.

Further it has been notified that specific rate of CGST applied to the standalone restaurants is @ 2.5%, other restaurant @ 9% and for handicraft goods the rate of job work has been reduced to 2.5%.

It shall come into force with effect from the 15th day of November, 2017.

EXEMPTION OF ADMISSION TO 'PROTECTED MONUMENT'

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 47/2017 - Central Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No. 12/2017- Central Tax (Rate), dated 28th June, 2017** regarding exemption to admission to 'protected monument'.

It further notifies that the Services by the way of admission to a protected monument under the Ancient Monuments and Archaeological Sites have been exempted under CGST Act with effect from 15th of November, 2017.

FURNISHING OF RETURN IN FORM GSTR-3B TILL MARCH, 2018 IS MANDATORY

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 56/2017 - Central Tax dated 15th November, 2017** hereby specifies that the last date for filing of return in FORM GSTR-3Bfor the month of January , February, March 2018 are 20th February , 20th March, 20th April 2018 respectively.

Moreover, every registered person furnishing the return in FORM GSTR-3B discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as mentioned above on which he is required to furnish the GSTR 3B return.

QUARTERLY FURNISHING OF FORM GSTR-1

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 57/2017 - Central Tax dated 15th November, 2017** hereby notifies that the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year shall follow the special procedure for furnishing the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter i.e., the time period for furnishing the details in FORM GSTR-1 for the quarter July - September, 2017 is 31st December, 2017, October - December, 2017 is 15th February, 2018, January - March, 2018 is 30th April, 2018 respectively.

DUE DATES FOR THE FURNISHING OF FORM GSTR-1

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 58/2017 - Central Tax dated 15th November, 2017** hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 for such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year as per following schedule:-

Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - October, 2017	31st December, 2017
November, 2017	10th January, 2018
December, 2017	10th February, 2018
January, 2018	10th March, 2018
February, 2018	10th April, 2018
March, 2018	10th May, 2018

GST: IGST

NOTIFICATIONS/CIRCULARS

EXEMPTION TO ADMISSION TO "PROTECTED MONUMENT"

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 49/2017-Integrated Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No. 9/2017- Integrated Tax (Rate), dated 28th June, 2017** regarding exemption to admission to 'protected monument'.

It further notifies that the Services by the way of admission to a protected monument under the Ancient Monuments and Archaeological Sites have been exempted under IGST Act with effect from 15th of November, 2017.

For detailed description readers may refer the above mentioned notification.

EXTENTION OF THE BENEFIT OF IGST EXEMPTION

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 50/2017-Integrated Tax (Rate) dated 14th November, 2017** hereby makes amendments in the **Notification No. 30/2017- Integrated Tax (Rate), dated 22nd September, 2017** regarding exemption of IGST on the supply of Skimmed milk powder, or concentrated milk for use in the production of milk.

Further it has been notified that the supply of Skimmed milkpowder, or concentrated milk for use in the production of milk will be exempted from IGST provided that the distribution should be done through dairy co-operatives to the companies that are registered under the Companies Act, 2013.

It shall come into force on the 15th day of November 2017.

AMENDMENT IN INTEGRATED GOODS AND SERVICES TAX RULES, 2017

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 12/2017 - Integrated Tax dated 15th November, 2017** hereby makes the following rules to amend the IGST Rules 2017 regarding apportionment of IGST with respect to advertisement services:-

The proportion of value attributable to different States or Union territories, in the case of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority, of the IGST Act, 2017, in the absence of any contract between the supplier of service and recipient of services, the value shall be determined accordingly by such State or Union territory, as the case may be. Following are some cases listed below :-

- newspapers and publications, the amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in a State or Union territory.
- printed material like pamphlets, leaflets, diaries, calendars, T-shirts etc, the amount payable for the distribution of a specific number of such material in a particular State or Union territory
- hoardings other than those on trains, the amount payable for the hoardings located in each State or Union territory and the advertisements placed on trains, the breakup, calculated on the basis of the ratio of the length of the railway track in each State for that train, of the amount payable for such advertisements.
- advertisements over radio stations the amount payable to such radio station, which by virtue of its name is part of a State or Union territory.
- advertisements at cinema halls the amount payable to a cinema hall or screens in a multiplex, in a State or Union territory, as the case may be

For detailed description readers may refer the above mentioned notification.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

WAIVER OF THE LATE FEE PAYABLE ON RETURN IN FORM GSTR-3B FOR THE MONTH OF JULY, 2017

OUR COMMENTS: The Commercial Taxes Department, Government of Meghalaya vide **Notification No. 65/2017/Pt/024 dated 1st November, 2017** hereby waives the late fee payable for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, 2017 by the due date i.e., 20th August 2017.

EXTENTION OF THE TIME LIMIT FOR FURNISHING THE RETURN FOR THE MONTH OF JULY, 2017

OUR COMMENTS: The Commercial Taxes Department, Government of Meghalaya vide **Notification No. 65/2017/Pt/025 dated 1st November, 2017** hereby extends the time limit for furnishing the return for the month of July, 2017, by a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient till 15th day of September, 2017.

This notification is deemed to have come into force from the 28th August, 2017.

TDS DEDUCTION ON PAYMENT

OUR COMMENTS: The Commercial Taxes Department, Government of Meghalaya vide **Notification No. 65/2017/Pt/026 dated 1st November, 2017** hereby appoints 18th September, 2017 as the date on which the provisions of tax deduction at source of the SGST Act shall come into force with respect to persons as specified in SGST Act and the persons specified below 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 :-

- an authority or a board or any other body either set up by an Act of Parliament or a State Legislature or established by any Government,with fifty-one percent or more participation by way of equity or control, to carry out any function
- society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860
- public sector undertakings

INTER-STATE TAXABLE SUPPLIES OF HANDICRAFT GOODS

OUR COMMENTS: The Commercial Taxes Department, Government of Meghalaya vide **Notification No. 65/2017/Pt/027dated 1st Nov, 2017** hereby specifies that the casual taxable persons who are making taxable supplies of handicraft goods are exempted from obtaining registration under SGST Act provided that the aggregate value of supplies, does not exceed an amount of twenty lakh rupees or ten lakh rupees as the case may be in a financial year.

DUE DATE FOR FILING OF RETURN IN FORM GSTR-3B

OUR COMMENTS: The Commercial Taxes Department, Government of West Bengal vide **Notification No. 56/2017 – State Tax dated 15th November, 2017** hereby specifies that the return for the month as specified below shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as the following :-

Month	Last Date for filing of return in FORM GSTR-3B
January, 2018	20th February, 2018
February,2018	20th March, 2018
March, 2018	20th April, 2018

Moreover, every registered person furnishing the return in FORM GSTR-3B discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger.

INCOME TAXES

NOTIFICATIONS/CIRCULARS

INTERNATIONAL CROPS RESEARCH INSTITUTE FOR THE SEMI-ARID TROPICS

OUR COMMENTS: The CBDT (Department of Revenue), Ministry of Finance, Government of India vide **Notification No.96/2017 dated 14th November, 2017** hereby notifies that the organization M/s International Crops Research Institute for the Semi-Arid Tropics ('ICRISAT') has been approved by the Central Government for the purpose of Expenditure on scientific research of **the** from Assessment year 2017-2018 onwards in the category of 'Scientific Research Association'**,** subject to the following conditions:-

- The sole objective of the approved 'Scientific Research Association' 'ICRISAT' shall be to undertake scientific research.
- The approved organization shall carry out scientific research by itself.
- The approved organization shall maintain separate books of accounts for its activities and operations performed by it through grants received.

  'ICRISAT' in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income.

- The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research for 'ICRISAT' and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:-

- Fails to maintain separate books of accounts.
- Fails to furnish its audit report.
- Fails to furnish its statement of the donations received and sums applied for scientific research.
- Ceases to carry on its research activities or its research activities are not found to be genuine.
- Ceases to conform to and comply with the provisions of Expenditure on scientific research .

INDIRECT TRANSFER PROVISIONS IN CASE OF REDEMPTION OF SHARE OR INTEREST OUTSIDE INDIA UNDER THE INCOME-TAX ACT, 1961

OUR COMMENTS: The CBDT (Department of Revenue), Ministry of Finance, Government of India vide **Circular No. 28/2017dated 07th November, 2017** hereby circulates regarding the clarification on Indirect Transfer provisions in case of redemption of share or interest outside India under the Income-tax Act, 1961.

Further it has been notified that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India.

In multi-tiered investment structures, where interest or share held indirectly by a non-resident in an Investment Fund or a Venture Capital Company or a Venture Capital Fund), is redeemed in an upstream entity outside India in consequence of transfer of shares or securities held in India by the specified funds, the income of which have been subject to tax in India. In such cases, application of indirect transfer provisions on redemption of share or interest in the upstream entity may lead to multiple taxation of the same income.

CUSTOMS

NOTIFICATIONS/CIRCULARS

EXEMPTION OF DRUGS AND IGST ON GOODS IMPORTED ON LEASE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 85/2017-Customs dated 14th November, 2017** hereby makes amendments in the **Notification No. 50/2017 Customs, dated 30th June, 2017,** regarding the exemption of life saving drugs that are supplied free of cost and exemption of IGST on goods imported on lease.
Moreover it is further notified that all goods, vessels, ships [other than motor vehicles] imported under lease, by the importer for use after import and Lifesaving drugs/medicines for personal use, supplied free of cost by overseas supplier has been exempted under the Custom duty.

For detailed description readers may refer the above mentioned notification.

EXEMPTION TO IMPORT OF SPECIFIED GOODS WHEN IMPORTED BY EMINENT SPORTSPERSON

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 86/2017 - Customs –Tariff dated 14th November, 2017** hereby exempts the goods falling under the First Schedule of the Customs Tariff Act, 1975 , in case it is imported into India, by eminent sportsperson from whole of the integrated tax leviable thereon subject to the certain specified conditions.
For detailed description readers may refer the above mentioned notification.

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 109/2017-Customs (N.T.) dated 15th November, 2017** hereby makes amendment in the **Notification No. 36/2001-Customs (N.T.), dated 3rd August, 2001** regarding the Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver in the following table:-

Description of goods	Tariff value (US $Per Metric Tonne)
Crude Palm Oil	729
RBD Palm Oil	762
Others – Palm Oil	746
Crude Palmolein	764
RBD Palmolein	767
Others – Palmolein	766
Crude Soya bean Oil	862
Brass Scrap (all grades)	3675
Poppy seeds	2667
Gold	410 per 10 grams
Silver	546 per kilogram
Areca nuts	3965

FORWARDING OF SAMPLES FOR TESTING TO THE OUTSIDE LABORATORIES

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **43 /2017-Customs dated 16th November,** 2017 hereby circulates regarding forwarding of samples for testing to the outside Laboratories.

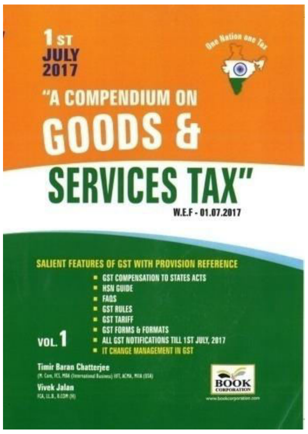
Further it has been notified that CRCL has shortlisted the items whose samples cannot be tested in their Laboratories at present and also identified the Laboratories functioning under the other Ministries/Departments/Organizations where such samples could be tested. Moreover the Commissioners of Customs are requested to issue suitable Public Notice based on aforementioned guidelines, prescribing detailed procedures for empanelment of laboratories, techniques for drawing & dispatching of samples, mechanism to receive online reports etc., for guidance of all concerned.

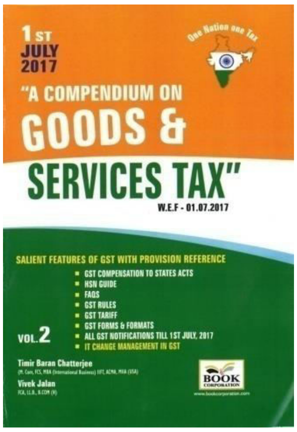
For procedure of forwarding the samples to the laboratories the reader may refer to the above mentioned circular.

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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