TAX CONNECT
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TAX CONNECT

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INCOME TAX

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EDITORIAL

Friends,

In this issue we will discuss about some recent clarification regarding some major topics under GST.

Some of the latest developments on GST front ranging from e-way bills, manual application for seeking advance ruling, steps in anti-profiteering, refund claims to issues like supply by artist etc.

Advance Rulings

An application for obtaining an advance ruling shall be made in quadruplicate, in FORM GST ARA-01. The application shall clearly state the question on which the advance ruling is sought. The application shall be accompanied by a fee of five thousand rupees which is to be deposited online by the applicant, in the manner specified under section 49 of the CGST Act. Though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the CGST Act.

The application, the verification contained therein and all the relevant documents accompanying such application shall be signed by applicant.

An appeal against the advance ruling issued be made by an applicant in quadruplicate, in FORM GST ARA-02 and shall be accompanied by a fee of ten thousand rupees to be deposited online, in the manner specified in section 49 of the CGST Act. Though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online.

The application for advance ruling or the appeal before the Appellate Authority shall be filed in the jurisdictional office of the respective State Authority for Advance Ruling or the State Appellate Authority for Advance Ruling respectively.

E-Way Bills

Every registered person has to generate an e-way bill, when all of the following conditions satisfied-

- There is a movement of taxable goods (mentioned in annexure to the notification).
- The consignment value exceeds ₹ 50,000/-
- Such movement is
  - in relation to a supply
  - for reasons other than supply
  - due to inward supply from un registered person.

Important dates for E-way Bills

DATE	WHY IMPORTANT?
16.01.2018	• The nationwide e-way Bill system will be ready to be rolled out on a trial basis latest by 16th January, 2018 • Trade and transporters can start using this system on a voluntary basis from 16th January, 2018.
01.02.2018	The rules for implementation of nationwide e-way Bill system for inter-state movement of goods compulsorily will be notified.
01.06.2018	• System for both inter-state and intra-state e-way bill generation will be ready by 16th January, 2018 • The States may choose their own timings for implementation of e-way Bill for intra-state movement of goods on any date before 1st June, 2018.

EDITORIAL

Anti-profiteering Measures

CBEC has issued procedure for filing applications to invoke anti-profiteering measures under GST law. CBEC has informed all stakeholders that if this is not done, the consumer's interest is protected by the National Anti-profiteering Authority which may order: (a) reduction in prices; (b) return of the amount not passed on with interest @18% to the recipient; (c) imposition of penalty; and (d) cancellation of registration of the supplier.

Further consumers may file an application, in the prescribed format, before the Standing Committee on Anti-profiteering if the profiteering has all-India character or before the State Screening Committees if the profiteering is of local nature.

Supply of Artist

The artists give their work of art to galleries where it is exhibited for supply. There is a confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery. The art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

The supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017. In case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Refund Claims due to Inverted Duty Structure

Refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A.However, in case registered persons having aggregate turnover of up to ₹ 1.5 crore in the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in FORM RFD-01A on the common portal.

In case of refund claim arising due to inverted duty structure, the statements - Statement 1 and Statement 1A of FORM GST RFD-01A have to be filled. Statement 5B of FORM GST RFD-01A is required to be furnished for claiming refund on supplies declared as deemed exports.

In case of refund claim for the balance amount in the electronic cash ledger, upon filing of FORM GST RFD-01A, the amount of refund claimed shall get debited in the electronic cash ledger.

However, the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act.

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 31st December, 2017 to 06th January, 2018	Description
31st Dec 2017	GSTR-1	GST Quarterly return for registered person with aggregate turnover up to Rs. 1.50 crore
31st Dec 2017	GSTR-1	GST Monthly return (July-Oct) for registered person with aggregate turnover of more than Rs. 1.50 crore
31st Dec 2017	GST TRAN-2	GST Transition Form for updating closing stock held as on June-30, 2017 by registered dealers
31st Dec 2017	GSTR-6	GSTR-6 by Input Service Distributer
31st Dec 2017	ITC-04	ITC-04 for Details of goods sent for Job Work
31st Dec 2017	Deadline	Deadline for linking Aadhar PAN, Banking, Mutual funds/Stocks, Insurance Policies, Post Office schemes-PPF, KVP etc.

GST: CGST

NOTIFICATIONS/CIRCULARS

MANUAL FILING AND PROCESSING OF REFUND CLAIMS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 24/24/2017-GST dated 21st December, 2017** hereby circulated regarding manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger.

It is further notified that due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate)and 41/2017-Integrated Tax (Rate) both dated 23.10.2017), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders.

In this regard, the Board, in exercise of its powers conferred under section 168 (1) of the CGST Act, 2017 hereby clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund in as much as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017:-

- refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies)
- refund of tax on the supply of goods regarded as deemed exports
- refund of balance in the electronic cash ledger.

For further details reader may refer the above mentioned circular.

MAINTENANCE OF BOOKS OF ACCOUNTS RELATING TO ADDITIONAL PLACE OF BUSINESS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 23/23/2017-GST dated 21st December, 2017** hereby circulated regarding issues in respect of maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber.

In exercise of the powers conferred under section 168 (1) of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified that –

- The principal and the auctioneer of tea, coffee, rubber etc. are required to declare warehouses where such goods are stored as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses.
- Both the principal and the auctioneer are required to maintain the books of accounts relating to each and every place of business in that place itself as per the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place of business at their principal place of business instead of such additional place.
- Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place of business at their principal place of business.
- Further, the principal or the auctioneer shall be eligible to avail input tax credit (ITC) subject to the fulfillment of other provisions of the Act and the rules made there under.

For further details reader may refer the above mentioned circular.

GST: IGST

ANALYSIS

OPERATION OF ANTI PROFITEERING

As per Section 171 of the CGST/SGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. An authority may be constituted by the government to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

As per rule 127, Anti-Profiteering Authority (APA) shall be duty bound to:

- determine whether any reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices.
- identify the registered person who has not passed on the benefit of reduction in rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.
- pass an appropriate order.

The powers to take action are also listed as duties whereby it can order price reduction, refund of profit, recovery, penalty or even cancellation of GST registration.

The Authority constituted by Central Government will have powers to impose a penalty in case it finds that the price being charged has not been reduced consequent to reduction in rate of tax or allowance of input tax credit.

There has been considerable delay in constitution of anti-profiteering authority which took almost five months since GST was introduced and consumers had to face the brunt of inflation and undue profiteering.

Now that GST Council has substantially lowered the tax rates on host of items, if the Authority plays its role well, it can be hoped that desirable benefits may accrue to consumers.

During the two years of initial transition into GST regime, Anti-Profiteering Authority (APA) will step in and may ask businesses that have not passed on full benefits of reduced tax burden to consumers to make up for such benefit, with interest.

The Government is committed to ensure all consumers enjoy the benefit of lower prices of goods and services under GST. Under GST, suppliers of goods and services must pass on any reduction in the rate of tax or the benefit of input tax credit to consumers by way of commensurate reduction in prices. If this is not done, the consumer's interest is protected by the National Anti-profiteering Authority which may order:

- reduction in prices
- return of the amount not passed on with interest @ 18% to the recipient
- imposition of penalty
- cancellation of registration of the supplier.

Affected consumers may file an application, in the prescribed format, before the Standing Committee on Anti-profiteering if the profiteering has all-India character or before the State Screening Committees if the profiteering is of local nature.

Though there is a legal provision in the GST law itself to take action against of undue profiteering, Government has taken various steps to ensure action on the part of manufacturers and suppliers so that the benefit is passed on to ultimate beneficiaries, i.e., the consumers. Even on existing stocks lying unsold, there is going to be revised prices put by way of stickers or otherwise. Since old and new (revised) prices would be displayed, a comparison thereof will show the benefit passed on due to lower tax cascading.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULAR

EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.MS.No. 582 dated 12th December, 2017** hereby notifies regarding exemption of intra-State supplies of goods.

For further details reader may refer the above mentioned notification.

EXPLORATAION AND PRODUCTION

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.MS.No. 583 dated 12th December, 2017** hereby notifies regarding 2.5% concessional SGST Rate for supplies to Exploratation and Production.

It is further notified that intra-State supplies of goods are exempt for the Goods specified in the above mentioned notification in respect of certain conditions as mentioned in connection with:-

- Petroleum operations undertaken under petroleum exploration licenses or mining leases, granted by the Government of India or any State Government to the Oil and Natural Gas Corporation or Oil India Limited on nomination basis.
- Petroleum operations undertaken under specified contracts.
- Petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy
- Petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP)
- Coal bed methane operations undertaken under specified contracts under the Coal Bed Methane Policy.

For further details reader may refer the above mentioned notification.

EXEMPTION FROM REVERSE CHARGE

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.MS.No. 585 dated 12th December, 2017** hereby notifies regarding exemption of intra-State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the State tax leviable thereon under section 9(4) of the SGST Act.

It is further notified that exemption shall not be applicable where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds five thousand rupees in a day.

EXEMPTION OF SUPPLIES TO A TDS DEDUCTOR

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.MS.No. 586 dated 12th December, 2017** hereby notifies regarding exemption of intra-State supplies of goods or services or both received by a deductor under section 51 of the SGST Act, from any supplier, who is not registered, from the whole of the State tax leviable thereon under section 9(4) of the SGST Act, subject to the condition that the deductor is not liable to be registered otherwise than under section 24(vi) of the SGST Act.

For further details reader may refer the above mentioned notification.

INCOME TAX

NOTIFICATIONS/CIRCULARS

SEEPZ SPECIAL ECONOMIC ZONE AUTHORITY

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India, vide Notification No. **99/2017** dated the **22nd December, 2017** hereby notifies regarding the SEEPZ Special Economic Zone Authority, an authority constituted under the Special Economic Zone Act, 2005 by the Government of India, in respect of the following specified income arising to that authority, namely:-

- lease rentals/Service charges from various units operating in the SEZ at rates prescribed by the SEZ Authority
- income by way of Gate Pass Entry Fees, Fine & Penalties from various units and other misc. income (Sale of garbage)
- interest on Bank Deposits and Investments.

This notification shall be effective subject to the conditions that SEEPZ Special Economic Zone Authority:-

- shall not engage in any commercial activity
- its activities and the nature of the specified income shall remain unchanged throughout the financial years
- it files return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2015-2016, 2016-2017 and shall apply with respect to the financial Years 2017-2018, 2018-2019 & 2019-2020.

For further details reader may refer the above mentioned notification.

HIMACHAL PRADESH COMPUTERIZATION OF POLICE SOCIETY

OUR COMMENTS: The CBDT, Department of Revenue, Ministry of Finance, Government of India, vide Notification No. **100/2017** dated the **22nd December, 2017** hereby notifies regarding the 'Himachal Pradesh Computerization of Police Society', a body established by the Government of Himachal Pradesh, in respect of the following specified income arising to that body, namely:-

- amount received in the form of Grant-in-aid
- interest accrued on CCTNS fund.

This notification shall be effective subject to the conditions that Himachal Pradesh Computerization of Police Society,-

- shall not engage in any commercial activity
- activities and the nature of the specified income shall remain unchanged throughout the financial years
- shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and shall apply with respect to the financial year 2017-2018.

For further details reader may refer the above mentioned notification.

CUSTOM

NOTIFICATIONS/CIRCULARS

BASIC CUSTOMS DUTY IN RESPECT OF TARIFF ITEM

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 94/2017–Customs dated 22nd December, 2017** hereby makes amendments in the **Notification No. 69/2011-Customs, dated 29th July, 2011.**

It is further notified that the concessional rate of basic customs duty ,i.e, 6.88% has been charged in respect of tariff item 8708 40 00 [gear box and parts thereof, of specified motor vehicles], w.e.f. 1st of January, 2018, when imported under the India-Japan Comprehensive Economic Partnership Agreement (IJCEPA).

TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 95/2017–Customs dated 22nd December, 2017** hereby notifies regarding tariff concessions in respect of specified goods imported from Korea RP under the India-Korea Comprehensive Economic Partnership Agreement (CEPA) w.e.f. 1st of January, 2018.

For further details reader may refer the above mentioned notification.

AMENDMENT IN VARIOUS NOTIFICATIONS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 119/2017- Customs (N.T.) dated 28th December, 2017** hereby notifies regarding amendment in various notifications which shall come into force from 1st January 2018.

It has made amendment in the **Notification No. 82/2017-Customs (N.T.) dated 24th August, 2017** regarding appointment of Commissioners, Additional or Joint Commissioners and Deputy or Assistant Commissioners of Customs.

It has made amendment in the **Notification No. 85/2017-Customs (N.T.) dated 07th September, 2017** regarding defining jurisdiction of customs officers for the purpose of audit.

It has made amendment in the Notification No. 92/2017-Customs (N.T.) dated 28th September, 2017 regarding defining jurisdiction of customs officers for the purpose of appeals.

For further details reader may refer the above mentioned notification.

ANTI-DUMPING DUTY ON PHTHALIC ANHYDRIDE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 56/2017-Customs (ADD) dated 21st December, 2017** hereby notifies regarding imposition of anti-dumping duty on Phthalic Anhydride originating in or exported from Korea RP, Chinese Taipei and Israel.

It is further notified that in exercise of the powers conferred by section 9A of the Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes amendment in the **Notification No. 58/2012-Customs (ADD) dated 24th December, 2012**.

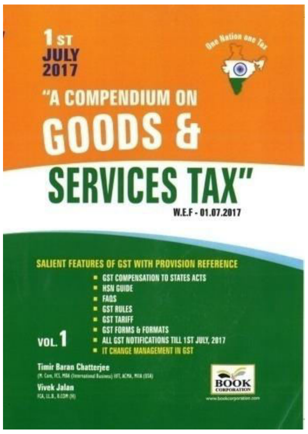
Moreover it also stated that this notification, unless revoked earlier, shall remain in force up to and inclusive of the 23rd December, 2018.

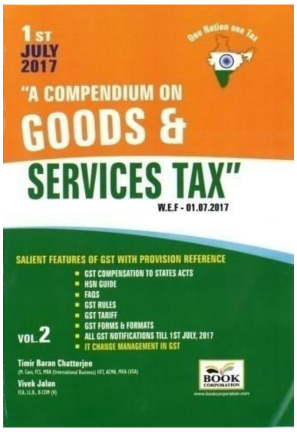
For further details reader may refer the above mentioned notification.

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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