TAX CONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

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INCOME TAX

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EDITORIAL

Friends,

He who gave thee a mind, armed thee with resolution. Employ it and thou art wise, be wise and thou art happy! We as an Organization have thus chosen to be happy and resolved to challenge the Horizons this 2018!

With our resolve to challenge the horizons comes the need to expand the core expertise areas of our now well appreciated bulletin. We thus introduce our New Joint Editor Ms Anindita Chatterjee. Anindita with her vast experience in areas like FEMA, Corporate Laws, International Taxation and Transfer Pricing, etc expands the bandwidth on the one hand. She also strengthens our existing areas like GST, Income Tax, Customs and other Indirect Taxes, Finance, Valuations and so on and so forth, on the other hand.

In the coming days you will get a publication from us on all the above areas. We shall serve in the new areas with the same vigour and deliver the quality as we have done till date.

To take our discussion further, E-way bill is pacing up and shall be in force anywhere between 16th January and 1st February. Hence the time is ripe to discuss on the nuances of the System which will impact Trade & Industry soon.

Electronic Way Bill (E-Way Bill) is basically a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. It helps the Government track the movement and consumption of goods.

Rule 138 of CGST Rules, 2017 provides that, e-way bill is an electronic way bill which has to be generated by every registered person causing movement of goods of consignment value exceeding ₹ 50,000/-.

Such movement can be,

- in relation to a supply
- for reasons other than supply
- due to inward supply from un registered person.

It is important to note the following 2 points –

1. The E- Waybill may be generated by any person, either consignor or consignee or Transporter (in certain cases)
2. E – Waybill is required even incase of Intra State movement of goods. Further it is required even if there is no supply.

<u>Who can generate an e-way bill</u>

- E-way bill must be generated when there is a movement of goods of more than ₹ 50,000 in value to or from a Registered Person.
- A Registered person or the transporter may choose to generate and carry e-way bill even if the value of goods is less than ₹ 50,000.
- Unregistered persons or their transporters may also choose to generate an e-way bill.

This means an e-way bill can be generated by both registered and unregistered persons. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.

<u>How to generate an e-way bill</u>

- Every registered person shall furnish he information in relation to goods being transported in Part-A of EWB-01, electronically on the common portal.
- Where the Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods then, he may generate the e-way bill in FORM GST EWB-01

EDITORIAL

electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

- Upon its generation, a unique e-way bill number (EBN) shall be allocated which shall be available to the supplier, recipient, and the transporter.

Consolidated e-way bill

- A consolidated e-way bill can be generated where multiple consignments are intended to be transported in one conveyance.
- The transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal
- A consolidated e-way bill may be generated by him in FORM GST EWB-02on common portal prior to the movement of goods.

Validity of an e-way bill

- Validity of an e-way bill depends upon the distance travelled by the goods being transported.
- As per Rule 138(10) of CGST Rules, 2017, an e-way bill or a consolidated e-way bill generated shall be valid for the specified period from the relevant date, for the distance the goods have to be transported, as mentioned under:

Distance	*Validity period*
Upto 100 km	One day
For every 100 km or part thereof thereafter	One additional day

Cancellation of an e-way bill

If the good fails to be shipped on the date of generation, the e-way bill can be cancelled within 24 hours but if it is verified in transit then, no cancellation can be made.

Exceptions to e-way bill requirement

No e-way bill is required to be generated in the following cases:

a. Transport of goods as specified in Annexure to Rule 138 of the CGST Rules, 2017
b. Goods being transported by a non-motorised conveyance;
c. Goods being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
d. In respect of movement of goods within such areas as are notified under rule 138(14) (of the SGST Rules, 2017 of the concerned State; and
e. Consignment value less than ₹ 50,000/-

Summary of Forms to be used

Form No.	*Rule*	*Description*
GST EWB-01	138	Generation of e-way bill(Part-A & Part-B)
GST EWB-02	138	Generation of Consolidated e-way bill
GST EWB-03	138-C	Summary report of every inspection of goods in transit shall be recorded online by the proper officer
GST EWB-04	138-D	Report against for detention of goods by proper officer

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 07th JANUARY, 2018 to 13th JANUARY, 2018	Description
7th Jan 2018	Income Tax Form: Challan Form ITNS 281	Monthly payment of TDS on all types of payments (Except in the case where amounted is credited in the Month of March 31)
7th Jan 2018	Income Tax Form: Challan Form ITNS 281	Monthly payment of TCS u/s 206C (other than government assessee)
7th Jan 2018	Income Tax Form: Form No. 27C	Last date of submission of declaration i.e., for no TCS u/s 206C(1A) obtained from manufacturer to the Commissioner/Chief Commissioner of Income Tax as the case may be.
7th Jan 2018	Income Tax Form: Form 15G and Form 15H	Submission of copy of declaration forms received from deductee by the deductor for non deduction of TDS under section 197A before the Chief Commissioner or Commissioner
7th Jan 2018	Income Tax Form: Challan Form ITNS 281	Quarterly payment of TDS for payments u/s 192, 194A, 194D or 194H with the prior approval of the Joint Commissioner
7th Jan 2018	Income Tax Form: Form No.26QB	Payment on transfer of certain immovable property other than agricultural land
10th Jan 2018	GST Form: GSTR - 1	Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or, section 51 or section 52 for the month of August, September, October and November

NOTIFICATIONS/CIRCULARS

QUARTERLY FURNISHING OF FORM GSTR-1 FOR TAXPAYERS WITH AGGREGATE TURNOVER OF UPTO 1.5 CRORE

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 71/2017 – Central Tax dated 29th December, 2017** hereby makes amendment in the **Notification No. 57/2017 – Central Tax dated 15th November, 2017** regarding extention of the due dates for quarterly furnishing of FORM GSTR-1 for taxpayers with aggregate turnover of upto 1.5 crore.

The return may furnish the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter as specified in the Table below

Quarter for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - September, 2017	10th January, 2018
October - December, 2017	15th February, 2018
January - March, 2018	30th April, 2018

MONTHLY FURNISHING OF FORM GSTR-1 FOR TAXPAYERS WITH AGGREGATE TURNOVER OF MORE THAN 1.5 CRORES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 72/2017 – Central Tax dated 29th December, 2017** hereby makes amendment in the **Notification No. 58/2017 – Central Tax dated 15th November, 2017** regarding extension of the due dates for monthly furnishing of FORM GSTR-1 for taxpayers with aggregate turnover of more than 1.5 crores.

On the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 by 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 by the due dates as mentioned in the table.

Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - 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

WAIVIER OF LATE FEE PAYABLE FOR FAILURE TO FURNISH THE RETURN IN FORM GSTR-4

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 73/2017 – Central Tax dated 29th December, 2017** herebywaives the amount of late fee payable under section 47 of the CGST Act, by any registered person for failure to furnish the return in FORM GSTR-4 by the due date, which is in excess of an amount of twenty five rupees for every day during which such failure continues.

Further it is notified that where the total amount payable in lieu of central tax in the return is nil, the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the said return by the due date shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

GST: IGST

ANALYSIS

EXEMPTION GIVEN TO SUPPLY MADE TO SEZ UNIT AND DEVELOPER

Treatment of supplies made to SEZ in GST regime has been confusing as already indicated by our earlier updates.

According to section 7(5) of IGST Act, 2017; supply of goods or services or both to or by a Special Economic Zone developer or a Special Economic Zone unit will be treated as supply of goods or services or both in course of inter-State trade or commerce.

Notification No. 18/2017-Integrated Tax (Rate) dated 5th July, 2017 has been issued to exempt services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon.

Further, Notification 64/2017-Cus provides IGST exemption to all goods imported by a unit or a developer in the Special Economic Zone for authorised operations under section 3(7) of the Customs Tariff Act, 1975 with section 5 of the Integrated Goods and Service Tax Act, 2017.

Thus, the above exemption from IGST has been given in case of goods imported into India, i.e. in case of physical import by SEZ unit or developer. It cannot be considered as applicable in case of purchase from domestic unit.

In view of above discussion, following is the status of various supplies made to SEZ unit or developer:-

- If supplier of goods makes supply on payment of IGST and SEZ unit intends to avail the credit, the supplier will show these supplies in "B to B category" in his GSTR-1. In this case, refund will be filed by SEZ unit or developer.
- If supplier of goods makes supply on payment of IGST and SEZ unit or developer does not intend to avail the credit; the supplier will claim the refund of tax so paid.
- If the supplier supplies the goods under bond or undertaking to SEZ unit or developer, he will be eligible to claim the refund.

ADMISSIBILITY OF INPUT TAX CREDIT ON THE SERVICES RELATED TO MOTOR VEHICLES

Section 17(5) of the CGST Act, 2017 prescribes the list of blocked credits and this lists allows the ITC on few goods and services on conditional basis. It states that the ITC will be available in the following cases:-

<u>Motor vehicles and other conveyances except when they are used</u>

(a)for making the following taxable supplies, namely:-

- Further supply of such vehicles or conveyances
- Transportation of passengers
- Imparting training on driving, flying, navigating such vehicles or conveyances

(b)For transportation of goods

Thus, ITC is not allowed "in respect of" motor vehicles and other conveyances except in specified cases. There has been a lots of discussion on the phrase "in respect of" as used in the above clause. Some experts are of view that it has wider impact and covers all the goods and services that are relatable to motor vehicles. The other school of thought is of the view that this phrase is very restricted and is limited to ITC on the purchase of motor vehicles.

Thus, Government is also changing its stand. The Government has taken restricted meaning of phrase "in respect of" in recent clarification and has clarified that the restriction contained in this clause will be restricted to purchase of motor vehicle only. All the other related activities will be outside the purview of this restriction. Thus, going by this clarification, all the other services that are related to motor vehicles are admissible as input tax credit.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULAR

FURNISHING OF RETURNS BY THE DEALER WHO HAS NOT OPTED FOR COMPOSITION

OUR COMMENTS: The Commercial Taxes Department, Government of Delhi vide **Notification No. 66/2017-State Tax dated 22nd December, 2017** hereby notifiesregarding the registered person who did not opt for the composition levy under section 10 of the SGST Act as the class of persons who shall pay the state tax on the outward supply of goods at the time of supply as specified in section 12(2)(a) of the SGST Act including in the situations attracting the provisions of section 14 of the SGST Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the SGST 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 SGST Act.

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

COMPOSITION SCHEME

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide **Notification No. 01/2018-State Tax dated 2nd January, 2018** hereby makes amendments in the Notification No. S.O. 105 dated 29th June, 2017, regarding Compostion Scheme.

It is further notified that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed seventy five lakh rupees, may opt to pay, in lieu of the State tax payable by him, an amount calculated at the rate of:-

- half percent of the turnover in State in case of a manufacturer
- two and a half per cent. of the turnover in State in case of persons engaged in making supplies
- half percent of the turnover of taxable supplies of goodsin State in case of other suppliers

EXTENSION OF THE TIME LIMIT FOR FURNISHING THE RETURN FORM GSTR-1

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide **Notification No.** S.O. 03 - Bihar SGST **dated 2nd January, 2018** hereby makes amendment in the Notification S.O.- 290 dated 16th November, 2017 regarding extension of the time limit for furnishing the return form GSTR-1.

It further notifies that the registered persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who may follow the special procedure as detailed below for furnishing the details of outward supply of goods or services or both.

The said persons may furnish the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter as specified in the following table :-

Quarter for which the details in FORM GSTR-1are furnished	**Time period for furnishing the details in FORM GSTR-1**
July - September, 2017	10thJanuary, 2018
October - December, 2017	15th February, 2018
January - March, 2018	30th April, 2018

The special procedure or extension of the time limit for furnishing the details or return, as the case may be, under section 38(2) and section 39(1) of the Act, for the months of July, 2017 to March, 2018 shall be subsequently notified in the Official Gazette.

This notification shall come into force with effect from 29 December, 2017.

INCOME TAX

NOTIFICATIONS/CIRCULARS

CHARITABLE INSTITUTIONS

Depreciation is allowable as per general rules as well as per Income-tax Act. Allowed even when purchase of assets was considered as application of income

Charitable institutions who avail exemption U/S 11 are required to apply their income to certain minimum extent and only a part can be accumulated or kept apart for application in future for its objects.

Purchase of fixed assets for the purpose of objects of institution is also considered as application of income of charitable institution.

Question arose is whether a fixed asset which has been considered as application of income is still eligible for depreciation allowance while computing income.

The Supreme Court has confirmed views expressed by Bombay High court and various other High Courts that , yes such assets are eligible for depreciation allowance as per general rule of accounting, as well as as per provisions of Income-tax Act when assets are used in busienss. This has also been confirmed that depreciation not allowed due to inadequate chargeable income shall also be carried forwarded as per Section 32(2)and can be set off in future when there is chargeable income.

The matter was related to period prior to amendment, by insertion of section 11(6)w.e.f. 01.04.2015. The said amendment has been held to be prospective.

EXPANDING SCOPE OF SCRUTINY AND SOME RELATED ISSUES

ITR are selected for limited scrutiny, when it is considered that though full scrutiny of ITR is not required but due to certain specific information found in the ITR or other information gathered by the Income-tax Department, it is desirable to scrutinise certain specific issues related to assessment of income.

Issues for limited scrutiny:

- Substantial increase in income or loss.
- Substantial increase in liabilities.
- Substantial claims for exemptions and deductions.
- Contradictory, unreconciled information in ITR.
- TDS/TCS information and particularly cases of mismatches.
- Information from other assesses and agencies in TDS and TCS returns Annual Information Return particularly about expenses, investments, disinvestments etc.

For limited scrutiny also notice is to be issued U/S 143(2) by the AO. The notice has to be issued on satisfaction of certain circumstances and within limits prescribed in this regard in the section 143(2). Relevant portion of which is reproduced below with highlights added by author for easy analysis.

When the Assessing Officer or the prescribed income-tax authority, considers it necessary or expedient to ensure that the assessee has not:-

- understated the income
- has not computed excessive loss
- has not under-paid the tax in any manner.

In such circumstances service of a notice for enquiry and scrutiny is mandatory.

Therefore, it can be said that issue of a notice for any type of scrutiny that is limited or complete are mandatory.

The notice should also be issued within limited period.

CUSTOM

NOTIFICATIONS/CIRCULARS

TARIFF CONCESSIONS IN RESPECT OF SPECIFIED GOODS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 96/2017–Customsdated 29th December, 2017** hereby makes amendments in the **NotificationNo.46/2011-Customs, dated 1st June, 2011**regarding deeper tariff concessions in respect of specified goods when imported from ASEAN under the India-ASEAN Free Trade Agreement.

The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 97/2017–Customsdated 29th December, 2017** hereby makes amendments in the **Notification No. 53/2011-Customs, dated 1st July, 2011**regarding deeper tariff concessions in respect of specified goods imported from Malaysia under the India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA).

For further details reader may refer the above mentioned notification.

FIXATION OF TARIFF VALUE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 120/2017-CUSTOMS (N.T.)dated 29th December, 2017** hereby makes amendments in the **NotificationNo.36/2001-Customs (N.T.), dated the 3rd August, 2001**regarding fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut,Gold and Silver.

The specified rates for each item has been clearly stated in the table of the respective notification.

For further details reader may refer the above mentioned notification.

EXCHANGE RATES NOTIFICATION

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 1/2018 - Customs (N.T.) dated 4th January, 2018** hereby makes amendments in the **Notification No. 118/2017-CUSTOMS (N.T.), dated 21st December, 2017** regarding rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa. It shall come into force from 5th January 2018.

SCHEDULE-I

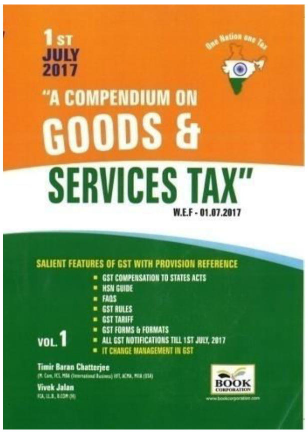
Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	(For Imported Goods)	(For Export Goods)
Australian Dollar	50.80	48.85
Bahrain Dinar	174.55	163.25
Canadian Dollar	51.60	49.95
Chinese Yuan	9. 95	9. 60
Danish Kroner	10.50	10.05
EURO	77.70	75.05
Hong Kong Dollar	8.25	8.00
Kuwait Dinar	218.45	204.15
New Zealand Dollar	45.95	44.30
Norwegian Kroner	8.00	7.70
Pound Sterling	87.55	84.65
Qatari Riyal	18.00	17.00
Saudi Arabian Riyal	17.55	16.40
Singapore Dollar	48.55	47.05
South African Rand	5.30	4.95
Swedish Kroner	7.95	7.65
Swiss Franc	66.15	63.95
UAE Dirham	17.90	16.75
US Dollar	64.50	62.80

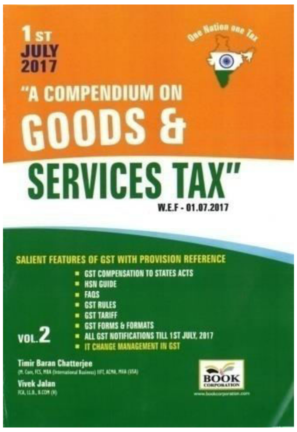
SCHEDULE-II

Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
	(For Imported Goods)	(For Export Goods)
Japanese Yen	57.45	55.50
Kenya Shilling	64. 90	60.65

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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