TAX CONNECT
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TAX CONNECT

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INCOME TAX

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EDITORIAL

Friends,

According to a recent report, **Prosecutions have been initiated in Income Tax for various offences** including wilful attempt to evade tax or payment of any tax; wilful failure in filing returns of income; false statement in verification and failure to deposit the tax deducted/collected at source or inordinate delay in doing so, among other defaults. During FY 2017-18(upto the end of November, 2017), the Department filed Prosecution complaints for various offences in **2225 cases compared to 784** for the corresponding period in the immediately preceding year**.** The number of complaints compounded by the Department during the current FY (upto the end of November, 2017) stands at **1052 as against 575** in the corresponding period of the immediately preceding year.

While a drive against tax evasion and action against tax evaders and hoaders of black money is driven in interest of the country, yet cautious treading is very essential, especially incases of prosecution. Further accountability on both sides, i.e. the side of the assessee and the Department should be clearly fixed.

Further, in an important Judgement, **The Delhi High Court in the case of Pr. Commissioner of Income Tax-6, New Delhi Versus National Informatics Centre Services Inc**., has held that the time limit for issuance of notice u/s 143(2) for scrutiny assessment u/s 143(3) shall be computed from expiry of 30 days from the date of filing of ITR or from the extended date.

The GST Council will meet on 18th January in the coming week. This meeting will be its last one before the presentation of the Union Budget on 1st February 2018. It is expected that the no:of Forms to be filed under GST may be rationalized. Also The GST Council may take up rationalisation of rates for a handful of items at its meeting. These items include bio-diesel buses, electric vehicles and irrigation equipment.

Going forward, Vide Circular No. 28/02/2018-GST dated 8th January, 2018, it has been clarified that Hostel mess facility will attract 5% GST. Mess facility provided to students and staff will attract 5% GST irrespective of whether it is provided by educational institution or outside contractor. The Central Board of Excise and Customs (CBEC) has issued the clarification in view of queries regarding the tax liability and the rate of goods and services tax (GST) leviable on services provided by a college hostel mess. The CBEC states that "Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor."

Further, the CBEC has also listed out certain common errors and procedure of reducing/ rectifying the same as follows -

Common errors in GSTR – 3B

- Liability was under reported;
- Liability over reported;
- Liability wrongly reported;
- Input tax credit was under reported;
- Input tax credit was over reported;
- Input tax credit of the wrong tax was taken;
- Cash ledger wrongly updated.

There are four stages in filing return GSTR – 3B-

Stage 1 – Confirmed submission;
Stage 2 – Cash Ledger updated;
Stage 3 – Offset liability;
Stage 4 – Return filed.

The registered person needs to decide at which stage of filing of Form GSTR – 3B he is currently at and also the error committed by him.

EDITORIAL

Under Stage – 1- Confirmed submission

Use 'Edit' facility to –

- **add** in case of under reported liability;
- in case of over reported liability;
- the wrongly reported liability.
- **add** un-availed input tax credit- input tax credit will be added to the credit ledger and may be used for offsetting this month or subsequent month's liability;
- the over reported input tax credit;
- the wrong credit was taken –
  - new input tax credit will be added to the credit ledger;
  - input tax credit reduced will be adjusted in the credit ledger without the any additional liability
- No action.

Under Stage – 2 – Cash Ledger updated

Use 'Edit' facility to-

- **add** such liability and additional cash, if required i.e., where sufficient balances are not available in the credit or cash ledgers, may be deposited in the cash ledger by creating Challan in form GST PMT – 06.
- over reported liability and cash ledger may be partially debited to offset such liability. Remaining balance may either be claimed as refund or used to offset future liabilities.
- wrong reported liability and cash ledger may be debited to offset new liability, where sufficient balances are not available in the credit ledger. Remaining balance, if any may be either claimed as refund or used to offset;
- **no action** is required in case of input tax credit was under reported;
- **deposit** additional cash, if required in the cash ledger by creating challan in Form GST PMT – 06, if input tax credit was over reported;
- **deposit** additional cash, if required, in the cash ledger by creating challan in Form GST PMT – 06, if input tax credit of wrong tax was taken.
- In case of wrongly updated- add cash under the right tax head and seek cash refund of the cash added under the wrong tax head.

Under Stage – 3 – Off set liability

- In case of liability under reported – Liability may be added in the return of subsequent month(s) after payment of interest;
- In case ofliability was over reported – liability may be adjusted in return of subsequent month(s) or refund may be claimed where adjustment is not feasible.
- In case of was wrongly reported – unreported liability may be added in the next month's return with interest, if applicable.Also adjustment may be made in return may be claimed where adjustment is not feasible.
- In case of input tax credit was under reported – input tax credit which was not reported may be availed while filing return for subsequent month(s).
- Input tax credit was over reported- pay through cash/Reverse such over reported input tax credit with interest in return of subsequent month(s);
- Input tax credit of the wrong tax was taken – Pay through cash/Reverse any wrongly reported input tax credit in return of subsequent month(s); For under reported input tax credit, the same may be availed in return of subsequent month(s).
- In cash ledger wrongly updated – No action.

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 14th JANUARY, 2018 to 20th JANUARY, 2018	Description
20th Jan 2018	GSTR 3B	Monthly return for December 2018

GST: CGST

NOTIFICATIONS/CIRCULARS

E-WAY BILL

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 74/2017 – Central Tax dated 29th December, 2017** hereby notifies that 1st day of February, 2018, has been appointed as the date from which **Notification No. 27/2017 – Central Tax dated 30th August, 2017**, regarding E-way bill shall come into force.

EFFECTIVE RATE OF TAX UNDER COMPOSITION SCHEME FOR MANUFACTURERS AND OTHER SUPPLIERS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 1/2018 - Central GST (CGST) dated 1st January, 2018** hereby makes amendments in the **Notification No.8/2017- Central Tax, dated 27th June, 2017**, regarding effective rate of tax under composition scheme for manufacturers and other suppliers.

Further it is notifies that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed one crore rupees , may opt to pay, in lieu of the central tax payable by him, an amount calculated at the rate of :-

- half per cent 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 per cent of the turnover of taxable supplies of goods of the turnover in State in case of other suppliers.

FILING OF RETURNS UNDER GST

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 26/26/2017-GST dated 29th December, 2017** hereby circulated regarding filing of returns under GST.
It is further notified that dates for filing of FORM GSTR-1 and FORM GSTR-3B have been notifoied in the above circular. For further details reader may refer the above mentioned circular.

GST ON ACCOMMODATION SERVICES, BETTING AND GAMBLING IN CASINOS, HORSE RACING, ADMISSION TO CINEMA, HOMESTAYS, PRINTING, LEGAL SERVICES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 27/01/2018-GST dated 4th January, 2018** hereby circulated regarding GST on accommodation services, betting and gambling in casinos, horse racing, admission to cinema, homestays, printing, legal services.

For further details reader may refer the above mentioned circular.

GST ON COLLEGE HOSTEL MESS FEES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 28/02/2018-GST dated 8th January, 2018** hereby circulated regarding GST on College Hostel Mess Fees.

It is further notified that the educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.

GST: IGST

ANALYSIS

FILING OF RETURNS UNDER GST

Every registered person under GST is to file the required returns within the time stipulated. The following returns are required to be filed by the registered person-

- GSTR 1 :- Details of outward supplies of goods or services
- GSTR 2 :- Details of inward supplies of goods or services
- GSTR 3 :- Monthly return
- GSTR 3B :- in lieu of GSTR 3

The registered persons are facing many problems in filing the returns in GST regime due to the glitches in GST net work. The due date for filing returns are extended by the Board. The Board has recently come with a circular clarifying the matters in filing return vide Circular No. 26/26/2017-GST, dated 29.12.2017.

Return filing dates

GSTR – 3B

In respect of return GSTR 3B it is to be filed by all registered persons on monthly basis. The due dates for filing return GSTR 3B for the months from December 2017 to April 2018 are given as detailed below by all registered persons-

- December 2017 return - 20.01.2018
- January 2018 return – 20.02.2018
- February 2018 return – 20.03.2018
- March 2018 return – 20.04.2018
- April 2018 return – 20.05.2018

GSTR -1

This return is meant for outward supply of registered person. There are two types of registered persons viz., whose turnover is up to Rs. 1.5 crores and whose turnover is more than Rs. 1.5 crores.

The registered person whose turnover is up to ₹ 1.5 crores, he is required to file GSTR -1 on quarterly basis and the rest to file on monthly basis.

The calendar for filing GSTR -1 is provided in the circular as detailed below-

For aggregate turnover up to Rs. 1.5 crore

- July 2017 to September 2017 – 10.01.2018
- October 2017 to December 2017 – 15.02.2018
- January 2018 to March 2018 – 30.04.2018;

For aggregate turnover more than Rs. 1.5 crore

- July to November 2017 – 10.01.2018
- December 2017 – 10.02.2018
- January 2018 – 10.03.2018
- February 2018 – 10.04.2018
- March 2018 – 10.05.2018

GSTR – 2 and GSTR – 3

It is clarified that the time period of filing of Form GSTR – 2 and Form GSTR – 3 for the months from July 2017 to March 2018 would be worked out by a Committee of officers and the same will be communicated later.

GSTR – 4

The registered persons opting for Composition scheme are required to file their returns quarterly in Form GSTR – 4. The due date for filing this return for the quarter ending September 2017 has been extended to 24.12.2017. For the remaining quarters the last date for filing this return within 18 days after the end of such quarter. For the quarter from October 2017 to December 2017 is to be filed on or before 18.01.2018.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULAR

AMOUNT OF LATE FEE PAYABLE FORM GSTR-4

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide **Notification No. S.O. 04-** Bihar SGST **dated 2nd January, 2018** hereby notifies regarding waiving the amount of late fee payable under section 47 of the SGST 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.

It is further notified that where the total amount payable in lieu of state tax in the said 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.

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

E-WAY BILL

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide **Notification No. S.O. 05-** Bihar SGST **dated 2nd January, 2018** hereby notifies regarding E-way bill.

It is further notified that 1st day of February, 2018 is appointed as the date from which the provisions of serial number 2 and 3 of **Notification S.O. 139, dated 1st September, 2017**, regarding E-way bill shall come into force.

ADVANCE RULING

OUR COMMENTS: The Commercial Taxes Department, Government of Goa vide **Notification No 38/1/2017-Fin(R&C)(35) dated 5th January, 2018** hereby notifies regarding Constitution of Goa Authority for Advance Ruling.

In exercise of the powers conferred by Section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act No. 4 of 2017), read with Rule 103 of the Goa Goods and Services Tax Rules, 2017, the Government of Goa hereby constitutes the Goa Authority for Advance Ruling consisting of the following members, namely:-

- Shri Rajan K. Satardekar, Additional Commissioner of State Tax, Goa State.
- Shri S. K. Sinha, Additional Commissioner, Central GST, Goa.

This Notification shall come into force with immediate effect.

DECREASE IN RATE OF COMPOSITION LEVY

OUR COMMENTS: The Commercial Taxes Department, Government of Haryana vide **Notification No 01/ST-2 dated 4th January, 2018** hereby makes amendments in the Haryana Government, Excise and Taxation Department, **Notification No.34/ST-2, dated 30th June, 2017 with effect from 1st January, 2018** regarding decrease in rate of composition levy.

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 percent of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act
- half percent of the turnover of taxable supplies of goods in State in case of other suppliers:

INCOME TAX

NOTIFICATIONS/CIRCULARS

PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. S.O. 93(E) - Income Tax dated 4th January, 2018** hereby notifies regarding the agreement between the government of the republic of India and the government of the federative republic of brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes.

It is further notified that the Protocol, amending the Convention and the Protocol between the Government of the Republic of India and the Government of the Federative Republic of Brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at New Delhi on the 26th April, 1988, was signed at Brasilia on the 15th day of October, 2013, as set out in the Annexure appended to this notification and hereinafter referred to as the said amending Protocol;

And whereas the said amending Protocol entered into force on the 6th day of August, 2017, being thirty days after the date of receipt of later of the notifications of the completion of the procedures required by laws of the Contracting States for bringing into force of the said amending Protocol;

Now, therefore, in exercise of the powers conferred by section 90 of the Income –tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of said amending protocol shall have effect in the Union of India with effect from the 6th day of August, 2017.

PROCESSING OF INCOME-TAX RETURNS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 01/2018 - Income Tax dated 10th January, 2018** hereby circulated regarding processing of income-tax returns under section 143(1) of the Income-tax Act which were filed in Forms ITR-1 to 6 & applicability of section 143(1)(a)(vi).

The scenario(s) for furnishing response are as under:

- Where upon receiving the awareness message or formal intimation u/s 143(1)(a)(vi) of the Act, if the taxpayer fully agrees with the proposed adjustment, he is required to file a revised return in response.

- Where upon receiving the awareness message or formal intimation u/s 143(1)(a)(vi) of the Act, if the taxpayer partially agrees with the proposed adjustment, he is required to (i) file a revised return for the part of the proposed adjustment with which he is in agreement & (ii) file a reconciliation statement (in the format to be provided by CPC-ITR on the e-filing site) for the part of the proposed adjustment with which he is not in agreement.

- Where upon receiving the awareness message or formal intimation u/s 143(1)(a)(vi) of the Act, the taxpayer disagrees with the proposed adjustment, he is required to file a reconciliation statement (in the format to be provided by CPC-ITR on the e-filing site) in support of his contention.

For further details reader may refer the above mentioned circular.

CUSTOM

NOTIFICATIONS/CIRCULARS

EFFECTIVE RATE OF CUSTOMS DUTY OF TARIFF

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 01/2018-Customs dated 5th January, 2018** hereby makes amendment in the **Notification No.82/2017-Customs, dated 27th October, 2017** regarding effective rate of customs duty of tariff item.

Further it is also notified that all the goods under HSN code 6001 92 00 shall applied a rate of 20% or Rs.100 per kg whichever is higher.

PETROLEUM COKE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 02/2018-Customs dated 5th January, 2018** hereby makes amendment in the **Notification No.50/2017-Customs, dated 30th June, 2017** regarding excluding petroleum coke from the purview of concessional 5% Basic Customs Duty.

For further details reader may refer the above mentioned notification.

INLAND CONTAINER DEPOTS FOR LOADING AND UNLOADING OF GOODS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 02/2018-Customs (N.T.) dated 5th January, 2018** hereby makes amendment in the **Notification No. 12/97-CUSTOMS (N.T.), dated the 2nd April, 1997** regarding inland container depots for loading and unloading of goods.

It is further notified that Viramgam, Village Bhojwa, Taluka Viramgam, District Ahmedabad (Gujarat) are hereby appointed for unloading of imported goods and loading of export goods for the state of Gujarat.

For further details reader may refer the above mentioned notification.

APPOINTMENT OF COMMISSIONERS, ADDITIONAL OR JOINT COMMISSIONERS AND DEPUTY OR ASSISTANT COMMISSIONERS OF CUSTOMS

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 03/2018- Customs (N.T.) dated 10th January, 2018** hereby makes amendment in the **Notification No. 82/2017-Customs (N.T.), dated the 24th August, 2017** regarding Appointment of Commissioners, Additional or Joint Commissioners and Deputy or Assistant Commissioners of Customs.

For further details reader may refer the above mentioned notification.

SALE OF SEIZED/ CONFISCATED GOLD

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Circular No. 01/2018 – Customs dated 11th January, 2018** hereby circulates regarding guidelines for the sale of seized/ confiscated gold.

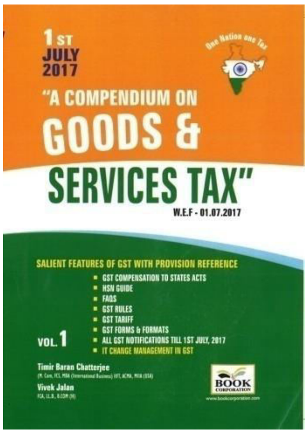
It is further notified that in this context in addition to the centre(s), viz, Mumbai, New Delhi, Calcutta, Chennai, Ahmedabad, Jaipur, Cochin, Bangalore and Shillong, the sale of seized / confiscated gold found ripe for disposal can be done at all the centres of State Bank of India, all Public Sector Banks (approved by RBI to import and sell gold), MMTC Ltd. and STC Ltd which also have authorisation from their competent authorities / head offices to dispose/sell the seized/confiscated gold handed over to them.

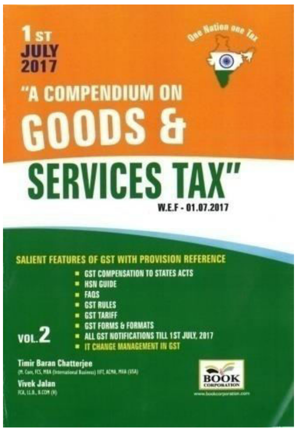
All the other conditions prescribed in the Ministry's letter vide F.No.711/164/93-CUS (AS) dated 08.08.2005 shall be followed.

For further details reader may refer 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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AVAILABLE IN STANDS

A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX

(Including ALL Notifications till date)

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. 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.

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