TAX CONNECT
155th Issue: 21st January 2018 - 27th January 2018

TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

BCC&I
THE BENGAL CHAMBER

INCOME TAX

CUSTOMS

TAX CONNECT

Kolkata : 1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
Delhi : B 42 Retreat Apartments, 20 IP Extension, Delhi 110 092
Gujarat : Quarter no. 3/174, Gujarat Refinery Township, Jawaharnagar, Vadodara-391320

Contact : +919331042424; +919831594980; +919830791914; +913322625203
Website : www.taxconnect.co.in
Email : tb.chatterjee@taxconnect.co.in;vivek.jalan@taxconnect.co.in; anindita.chatterjee@taxconnect.co.in

EDITORIAL

Friends,

The all-powerful GST Council meeting held for the 25th time with an agenda to review the rates on basis of representation made by the Industries & Traders, take up issues pertaining to simplification of returns filing under GST and take corrective measures to restore falling revenue collection in GST.

However the said decisions will be given effect to through Gazette Notifications/circulars which shall have the force of law.

With the conclusion of the 25th GST Council meet on January 18, 2018, the gist of the key takeaways from the meeting are as under:

Enhancement in GST rate for certain goods

The GST Council recommended the rate enhancement as detailed below-

- **From 12% to 18%** - Cigarette filter rods;
- **From NIL rate to 5%** - Rice bran (other than de-oiled rice bran)

Exemption from GST/IGST for certain services

The GST Council recommended exemption from GST for the following services-

- Viability Gap Funding for a period of 3 years from the date of commencement of RCS airport from the present period of one year;
- Supply of services by way of providing information under RTI Act, 2005;
- Legal services provided to Government, local authority, Governmental Authority and Government Entity;
- Transportation of goods from India to a place outside India by air; (available up to 30.09.2018)
- Transportation of goods from India to a place outside India by sea and provide that value of such service may be excluded from the value of exempted service for the purpose of reversal of ITC (available up to 30.09.2018);
- Naval Insurance Group Fund by way of Life Insurance to personnel of Coast Guard under the Group Insurance Scheme of the Central Government retrospectively from 01.07.2017;
- Exemption to IGST payable on supply of services covered by item 5(c) of Schedule II of CGST Act, to the extent of aggregate of the duties and taxes leviable towards royalty and licence fee includible in transaction value as specified under Rule 10(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- Enhance exemption limit of ₹ 5,000/- per month to ₹ 7500/- per month in respect of services provided by Resident Welfare Association (unincorporated or nonprofit entity) to its members against their individual contribution.
- Dollar denominated services provided by financial intermediaries located in IFSC SEZ, which have been deemed to be outside India to a person outside India.
- Services by government or local authority to governmental or governmental entity, by way of lease of land and supply of land or undivided share of land by way of lease or sub lease where such supply is a part of specified composite supply of construction of flats etc., and to carry out suitable amendment in the provision relating to valuation of construction service involving transfer of land or undivided share of land, so as to ensure that buyers pay the same effective rate of GST on property built on leasehold and freehold land.
- Pure services provided to Government entity;
- To expand pure services exemption to include composite supply involving predominantly supply of services i.e. upto 25% of supply of goods;
- Services relating to admission to, or conduct of examination provided to all educational institutions;
- Services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;
- Reinsurance services in respect of insurance schemes exempted;
- To increase threshold limit for exemption for all theatrical performances from ₹ 250/- to ₹ 500/- per person and to the services by way of admission to a planetarium;
- Services by way of fumigation in a warehouse of agricultural produce;

EDITORIAL

- Subscription of online educational journals/periodicals by educational institutions who provide degree recognized by any law from GST.
- Renting of transport vehicles provided to a person providing services of transportation of students,
- faculty and staff to an educational institution providing education up to higher secondary or equivalent.
- Services provided by an to Federation Internationale de Football Association and its subsidiaries directly or indirectly related to any of the events under FIFA U – 20 World Cup in case the said extent is hosted by India.
- Government's share of profit petroleum from GST and to clarify that cost petroleum is not taxable per se.

Changes in compensation cess

The GST Council recommended NIL rate of compensation cess from the applicable rate to the following-

- Motor vehicles (falling under heading 8702,as it was in excise regime) cleared as ambulances, duly fitted with all fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such vehicles. 10 – 13 seater ambulances, subject to specified conditions;
- Old and used motor vehicles (medium and large cars and SUVs) on the margin of the supplier, subject to the condition that no input tax credit of Central Excise duty/VAT or GST paid on such vehicles has been availed of by him;
- All types of old and used motors (other than medium and large cars and SUVs) on the margin of the supplier of subject to the conditions that no input tax credit of central excise duty/VAT or GST paid on such vehicles has been availed by him.

Change in rate for services

From 28% to 18%

- Admission to theme parks, water parks, joy rides, merry-go-rounds, go-caring and ballet.

From 18% to 12%-

- GST rate on construction of metro and monorail projects (construction, erection, commissioning or installation of original works);
- Works contract services provided by sub contractor to the main contractor providing works contract service to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract GST of 12%

From 18% to 5%

- Tailoring service;
- Transportation of petroleum crude and petroleum product Common effluent treatment plants services of treatment of effluents
- Reduction in GST rate for certain goods

Recommendation for GST Rate changes on SERVICES:

From 28% to 18%

- Old and used motor vehicles (medium and large cars and SUVs) on the margin of the supplier, subject to the condition that no input tax credit of central excise duty/VAT or GST paid on such vehicles has been availed by him;
- Buses, for use in public transport, which exclusively run on bio-fuels.

From 28% to 18%

All types of old and used motor vehicles (other than medium and large cars and SUVs)on the margin of the supplier of subject to the conditions that no input tax credit of central excise duty/VAT or GST paid on such vehicles has been availed by him.

From 18% to 12%

- Sugar boiled confectionary;
- Drinking water packed in 20 litters bottles;
- Fertilizer grade Phosphoric acid;
- Bio-diesel;
- Bio-pesticides-
- Bacillus thuringiensis var, israelensis
- Bacillus thuringiensis var, kurstaki
- Bacillus thuringiensis var, galleriae
- Bacillus sphaericus
- Trichoderma viride
- Trichoderma harzianum
- Pseudomonas fluoresens
- Beauveriabassiana
- NPV of Helicoverpaarmigera
- NPV of Spodopteralitura
- Neem based pesticides
- Cymbopogan
- Bamboo wood building joinery
- Drip irrigation system including laterals, sprinklers
- Mechanical sprayer

EDITORIAL

From 18% to 5%

- Tamarind Kernel Powder
- Mehendi paste in cones
- LPG supplied for supply to household domestic consumers by private LPG distributors
- Scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads.
- Satellites and payloads and scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads.

From 12% to 5%

- Articles of straw, of esparto or of other plaiting materials;
- Basket ware;and
- Wickerwork.
- Velvet fabric – subject to the condition that refund of unutilized input tax credit is available

From 3% to 0.25%

- diamonds and precious stones.

NIL GST Rate

- Vibhuti
- Parts and accessories for manufacture of hearing aids;
- De-oiled rice bran.

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

Timir Baran Chatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.B, B. Com (H)

Anindita Chatterjee
CS, BA L.LB(BANGALORE)

SYNOPSIS

S.NO.	TOPICS	PAGE NO.
1]	**TAX CALENDAR**	**5**
2]	**GOODS & SERVICE TAX (GST)**	
a)	**GST: CGST**	**6**
Analysis	5% GST ON MESS FACILITY PROVIDED BY EDUCATIONAL INSTITUTIONS	
b)	**GST: IGST**	**7**
Analysis	E-WAY BILL MANDATORY FROM 01.02.2018	
c)	**GST: SGST/UTGST**	**8**
Notification/Circular	DECREASE IN RATE OF COMPOSITION LEVY	
Notification/Circular	ADVANCE RULING	
Notification/Circular	WAIVER THE AMOUNT OF LATE FEE PAYABLE FORM GSTR-4	
3]	**INCOME TAXES**	**9**
Analysis	INCOME TAX BUSINESS APPLICATION	
4]	**CUSTOMS**	**10**
Notification/Circular	TEMPORARY IMPORT OF PROFESSIONAL EQUIPMENT AND SPORTS GOODS UNDER A.T.A. CARNET	
Notification/Circular	FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SLIVER	
5]	**IN STANDS: A COMPENDIUM ON GOODS & SERVICES TAX**	**11**
6]	**IN STANDS: A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX**	**12**

TAX CALENDAR

Due date	COMPLIANCES FROM 21st JANUARY, 2018 to 27th JANUARY, 2018	Description
25th Jan 2018	PF ESI	Monthly - Consolidated Statement of dues and remittance under EPF Scheme, 1952, EPS 1995 and Employees' Deposit Linked Insurance Scheme, 1976 of the previous month to which the dues relate.

NOTIFICATIONS/CIRCULARS

5% GST ON MESS FACILITY PROVIDED BY EDUCATIONAL INSTITUTIONS

The Government of India vide **Circular no. 28/02/2018-GST dated January 08, 2018** (**"Circular No. 28"**), has issued clarification on following queries in situation when 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:

- Whether mess facility provided by Educational Institutions is taxable in GST?
- If taxable, then what is the rate of GST applicable on mess facility provided by such Educational Institutions?

It is clarified that supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit [Serial No. 7(i) of Notification No. 11/2017-Central Tax (Rate) as amended vide Notification No. 46/2017-Central Tax (Rate) dated November 14, 2017]. It is immaterial whether the service is provided by the Educational Institution itself or the Institution outsources the activity to an outside contractor.

Circular No. 28 looks like not in line with the law and other similar provisions contained in GST Act and Notifications/Circulars issued there under. At the outset, it is worthwhile to note that clause (a) of S. No. 66 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 ("the Exemption Notification") broadly exempts services provided by an Educational Institution to its students, faculty and staff.

In this regard, the term Educational Institution as defined under the Exemption Notification itself, covers an institution providing services by way of –

- pre-school education and education up to higher secondary school or equivalent;
- education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- education as a part of an approved vocational education course

Further, clause (b) of S. No. 66 exempts certain services provided to an Educational Institution (an institution providing services by way of pre-school education and education up to higher secondary school or equivalent), but, limited to services namely transportation, catering, security, cleaning, housekeeping and admission or conduct of examination.

Apparently, services provided by an Educational Institution are exempt from GST, but, when services are supplied to an Educational Institution, exemption is restricted only for specified services and that to only for pre-school and higher secondary.

Further, since, the mess facilities provided by Educational Institutions are incidental to and/ or naturally bundled for the provision of principal activity of education services, it should also be eligible for exemption by virtue of S. No. 66(a) of the Exemption Notification which, generally exempts services provided by Educational Institution.

As regards the case where such mess facility is outsourced to a third person, clause (b) of S. No. 66 of the Exemption Notification will come into the picture, which exempts catering services provided to an Educational Institution up to pre-school and higher secondary.

GST: IGST

ANALYSIS

E-WAY BILL MANDATORY FROM 01.02.2018

E-way bill is an electronic document generated on the portal evidencing movement of goods. It has two components- Part A comprising of details of GSTIN of recipient, place of delivery, invoice or challan number and date, value of goods, HSG Code, transport document number and reasons for transportation. Part B comprises of transporter details such as vehicle number.

Every registered person who causes movement of goods of consignment of value more than ₹ 50,000/- is required to furnish above mention information in Part A of e-way bill.

The following are the features of E-way portal-

- User can create masters of his customers, suppliers and products for easy generation of e-way bill;
- User can monitor e-way bills generated on his account/behalf;
- Multiple modes for e-way Bill generation for ease of use;
- User can create sub-users and roles on portal for generation of e-way bill;
- Alerts will be sent to users via mail and SMS on registered mail id/mobile number;
- Vehicle number can be entered either by the supplier of goods who generates EWB or the transporter;
- QR code will be printed on each e-way bill for ease of seeing details;
- Consolidated e-way bill can be generated for vehicle carrying multiple consignments.

The GST tax payers can register in the e-way bill system by giving their GSTIN numbers. The unregistered transporters and businesses can enroll under the e-way bill system by providing their PAN number or Aadhaar.

The e-way bill can be generated in the following modes-

- Web-online using browser on laptop or desktop or phones etc.,
- Android based mobile app on mobile phones;
- Via SMS through registered mobile number;
- Via API (Application Program Interface) i.e, integration of IT system of user with e-way bill system for generation of e-way bill;
- Tool based bulk generation of e-way bills;
- Third party based system of Suvihda Providers.

For this purposes the following forms are prescribed=

- Form GST EWB – 01 – E-way Bill;
- Form GST EWB – 02 – Consolidated E-way Bill;
- Form GST EWB – 03 – Verification Report;
- Form GST EWB – 04 - Report of detention;
- Form GST INV – 01 – Generation of Invoice Reference Number.
- Form GST ENR – 01 – Application for enrolment under section 35(2) – for unregistered persons only

Vide Notification No. 74/2017-Central Tax, dated 29.12.2017 the Central Government notified the above rules that will come into effect from 01.02.2018.

The following are the stages for the roll out of E-way bills-

- The E-way bills will be rolled out on trial basis from 16.01.2018.
- The E-way bill rules will come into effect in India from 01.02.2018.
- The States can opt to follow e-way bill system at any time before 01.06.2018.
- From 01.06.2018 the e-way bill rules will uniformly apply to all States.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULAR

DECREASE IN RATE OF COMPOSITION LEVY

OUR COMMENTS: The Commercial Taxes Department, Government of Jharkhand vide **Notification No 01/2018-State Tax dated 10th January, 2018** hereby makes amendments in the **Notification No. S.O 50- State Tax, dated 29th June, 2017** regarding decrease in rate of composition levy.

The Commercial Taxes Department, Government of Uttarakhand vide **Notification No. 29/2018/9(120)/XXVII(8)/2017/CT-1 dated 04th January, 2018** hereby makes amendments in the **Notification No. 513/2017/9(120)/XXVII(8)/2017 dated 29th June, 2017** 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.

This notification shall be deemed to be effective from 1st January, 2018. For further information reader may refer the above mentioned Notification.

ADVANCE RULING

OUR COMMENTS: The Commercial Taxes Department, Government of Madhya Pradesh vide **Notification No FA-3-89/2017-1-V-(164) dated 12th January, 2018** hereby notifies regarding Constitution of the Madhya Pradesh Appellate Authority for Advance Ruling.

It is further notified that the Madhya Pradesh Goods and Services Tax Act, 2017 hereby constitutes the Madhya Pradesh Appellate Authority for Advance Ruling at Office of Commissioner Commercial Tax, Moti Bunglow, PIN 452007, Indore.

WAIVER THE AMOUNT OF LATE FEE PAYABLE FORM GSTR-4

OUR COMMENTS: The Commercial Taxes Department, Government of Jharkhand vide **Notification No S.O. 03 - Jharkhand SGST dated 03rd 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 SGST 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 be deemed to be effective from 29th December, 2017.

INCOME TAX

NOTIFICATIONS/CIRCULARS

INCOME TAX BUSINESS APPLICATION

Income-tax Department has launched 'E-Proceeding' facility to make simple communication between the Department and assessee, through electronic means. This obviate necessity to visit Income-tax Office for conduct of assessment proceedings. Thus it can be very taxpayer friendly measure and can substantially reduce the compliance cost and burden for the assessee.

This will also enforce feeling of respect of taxpayers by tax department because by this system, a concern towards convenience and value of time of tax payers is shown, expressed and hopefully it will materialize to a great extent.

In case of personal hearing when assessee or his authorised representatives have to wait for long hours and for many times, it really left the tax payers and their authorised Representatives with a low feeling as if they are very low graded people and the tax authorised are very power full and tax payer is at mercy of tax officers.

E-proceeding will also be environment friendly because:

- Use of paper will be reduced- this will save trees.
- Travel and transport will reduce so gas and heat transmission will reduce..
- Lighting for visitors will be reduced.
- Anywhere and anytime facility for assessee.

Therefore, besides reducing compliance cost of assessee, the cost of tax administration of government will also reduce.

In the ITBA module assessee can upload only scanned PDF files. This must be made flexible and uploading of word files, Xcell sheets, and files through zip file mode should also be allowed.

It has also been experienced that sometimes scanned PDF files so uploaded are not opening in the computers of AO. This may be due to several reasons like different operating system, different type of scanning and PDF formats and other technical reasons.

There is also limitation for uploading of files at a time. If number of files exceed, then one has to make another submission.

In case uploading of zip files be introduced in the system/ software then working of uploading of files by assessee and opening and viewing of files by the Assessing Officers will be easy and smoot. Furthermore, limitation of uploading ten files in one submission will also be removed because in case of ZIP/ RAR files large number of files with more data can be uploaded at a time.

The direct tax department can consult their advisors and choose suitable zip file software. Link of such software can also be made available to assessee so that he can download the software for uploading files through my account in ITBA.

The CBDT has issued Instruction No. 8/2017 dated 29th September 2017 in which it has set out the procedure covering various aspects of conducting scrutiny assessments electronically in cases which are getting barred by limitation during the financial year 2017-2018.

CUSTOM

NOTIFICATIONS/CIRCULARS

TEMPORARY IMPORT OF PROFESSIONAL EQUIPMENT AND SPORTS GOODS UNDER A.T.A. CARNET

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 4/2018 – Customs dated 18th January, 2018** hereby exempts the goods as specified in the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) in case imported into India, from the whole of the duty of customs leviable thereon which is specified in the respective schedule as mentioned above and from the whole of the integrated tax leviable thereon under section 3(7) of the Customs Tariff Act, subject to the conditions that :-

- the said goods are imported under a Carnet guaranteed by the Federation of Indian Chamber of Commerce and Industry in India (hereinafter referred to as FICCI), as per provisions of the Customs Convention on the A.T.A. carnet for Temporary Admission of Goods (A.T.A. Convention) done at Brussels on 8th June 1961;
- the said goods shall be owned by a natural person resident abroad or by a legal person established abroad;
- the importer of the said goods shall be a natural person resident abroad or a legal person established abroad;
- the said goods shall be capable of identification on re-exportation;
- the said goods in all respects conform to the description, quantity, quality, value and other specifications given in the Carnet duly certified by the Customs authorities in the territory of exportation;
- the said goods shall be exported within a period of two months from the date of importation:

  Provided that if the same goods are re-imported within the said period of two months, the period of two months shall be computed from the date of its first importation under the said Carnet:

  Provided further that where the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, is satisfied that it is necessary in the public interest so to do, the said period of two months may be extended for a further period not exceeding two months;

- in the event of failure to export the goods within the period specified above FICCI and the importer shall, jointly and severally, be liable to pay the duties of customs leviable on the goods as on the date of import, along with applicable interest:

  Provided that the liability of the FICCI shall not exceed the amount of the duties of customs by more than ten per cent.

For further information reader may refer the above mentioned Notification.

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SLIVER

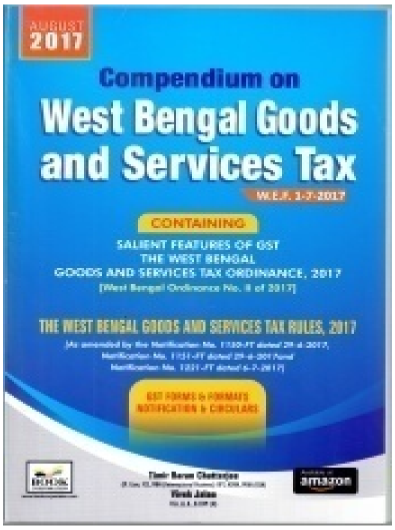
OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 05/2018-CUSTOMS (N.T.) dated 15th January, 2018** hereby makes amendment in the **Notification No. 36/2001-Customs (N.T.), dated 3rd August, 2001**, regarding fixation of tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver.

For further information reader may refer the above mentioned Notification.

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.

Authors:

TimirBaranChatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

VivekJalan
FCA, LL.B., B.Com (Hons.)

Published by:
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com