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EDITORIAL

Friends,

In this issue we will discuss about some **Clarification regarding GST in respect of certain services** as per the Circular No. 32/06/2018-GST, dated 12th February, 2018.

Government makes clarification regarding GST in respect of certain services.

- Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt.

- Accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt.
- Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services.
- Fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.
- Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers.
- The GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed.
- Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt.

- Cost of petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.

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 25th FEBRUARY, 2018 to 03rd MARCH, 2018	Description
25th Feb 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

CLARIFICATION REGARDING GST IN RESPECT OF CERTAIN SERVICES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 32/06/2018-GST, dated 12th February 2018** hereby makes clarification regarding GST in respect of certain services. Some clarification is as follows:-

S. No	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate).
2.	Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account. (2)Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.	Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. It is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.
3.	Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 refers]
4.	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer.	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed.

GST: IGST

ANALYSIS

REFUND OF IGST PAID ON EXPORT OF GOODS

OUR COMMENTS: Refund of IGST paid on export of goods is the matter of major concern for exporters under GST. We mention the following points in regards to refund of IGST paid on export of goods.

- The refund of IGST paid on export of goods is processed and disbursed by Customs.
- The GST System validates invoice data filed under Table 6A of GSTR 1 based on certain rules, which are specified in Para-E of this advisory, and transmits to ICEGATE for further validation and disbursement of refund.
- Processing of invoices of GSTR 1 pertaining to the export of goods with payment of IGST by the GST System.

  Transmission of validated invoices to ICEGATE for refund of IGST paid on exports of goods.

  To ensure that the GST System transmits invoice data, for refund of IGST paid on exports of good, the exporters are advised to provide Complete and Correct Data as per the points given below:

1) File GSTR 1 for the corresponding tax period, and ensure that:
   - Invoice data for export of goods is provided in Table 6A of FORM GSTR 1 for the relevant tax period
   - Invoice numbers provided in Table-6A of FORM GSTR 1 are same as that of the invoice details given in Shipping Bill.
   - Select WPAY (with payment of tax) from drop down given in Table 6A as "invoice type".
   - Shipping bill number, shipping bill date and port code (originating port) etc. are to be specified mandatorily and correctly, in case of export of goods.
   - Port code is alphanumeric six character code as prescribed by ICEGATE.

     Port codes are available at ICEGATE under https://www.icegate.gov.in/SMTP List.html.

2) While filing GSTR 3B Return for the said tax period, please ensure that:
   - IGST amount to be paid on export of goods/services outside India or to SEZ etc. are filed under Table 3.1 (b) and not under.
   - As per circular number 26/26/2017, dated 29-Dec-2017, issued by CBEC, anomalies in filing of GSTR-3B as specified under Para A of this document may be adjusted while filing GSTR 3B of subsequent tax period.
   - If IGST paid on exports has been declared in Table 3.1(a) or Table 3.1(c) instead of Table 3.1(b), and IGST shown to have been paid under Table 6A of GSTR 1 of that tax period, appropriate adjustment may be done in subsequent month.
     - ➢ If IGST paid on exports has been declared as ZERO in Table 3.1(b), whereas, IGST shown to have been paid under Table 6A of GSTR 1 for that tax period.
       The correct amount can be declared and offset while filing GSTR 3B of subse/quent tax period.
     - ➢ If IGST paid on exports declared in Table 3.1(b) is lesser that the total IGST shown to have been paid under Table 6A and Table 6B of GSTR 1, differential amount of IGST can be paid through GSTR 3B of subsequent tax period.
   - IGST amount filed in Table 3.1(b) of GSTR 3B is either equal to, or greater than the total IGST shown to have been paid under Table 6A, and Table 6B of GSTR 1.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

REIMBURSEMENT OF STATE TAXES

OUR COMMENTS: The Commercial Taxes Department,

Government of Jammu and Kashmir vide **SRO. 63, dated 5th, February 2018** hereby makes Reimbursement of Taxes for promotion of Small/Medium/Large Scale Industries.

ANALYSIS

JOB WORK UNDER GST

- Job-work is 'any treatment or process undertaken by a person on goods belonging to another registered person'.

  The one who does the said job would be termed as 'jobworker'.
- The ownership of the goods does not transfer to the job-worker but it rests with the principal.

  The jobworker is required to carry out the process specified by the principal on the goods.

Facilities and condition for job work

- A registered person (Principal) can send inputs/ capital goods under intimation and subject to certain conditions without payment of tax to a job-worker and from there to another job-worker and after completion of job-work bring back such goods without payment of tax.

  The principal is not required to reverse the ITC availed on inputs or capital goods dispatched to job-worker.

- Principal can send inputs or capital goods directly to the job-worker without bringing them to his premises and can still avail the credit of tax paid on such inputs or capital goods.
- However, inputs and/or capital goods sent to a jobworker are required to be returned to the principal within 1 year and 3 years, respectively, from the date of sending such goods to the job-worker.
- After processing of goods, the job-worker may clear the goods to;

- In case the job-worker is a registered person under GST, even declaring the premises of the job-worker as additional place of business is not required.
- Before supply of goods to the job-worker, the principal would be required to intimate the Jurisdictional Officer containing the details of the description of inputs intended to be sent by the principal and the nature of processing to be carried out by the job-worker.

- A person supplying taxable goods to the jobworker shall be entitled to take the credit of input tax paid on inputs sent to the job-worker for the job-work.
  Further, the proviso also provides that the principal can take the credit even when the goods have been directly supplied to the job-worker without being brought into the premise of the principal.
  The principal need not wait till the inputs are first brought to his place of business.

- Inputs and capital goods after processing shall be returned back to principal within one year or three years respectively of their being sent out.

- Waste generated at the premises of the job-worker may be supplied directly by the registered job-worker from his place of business on payment of tax or such waste may be cleared by the principal, in case the job-worker is not registered.

INCOME TAX

NOTIFICATIONS/CIRCULARS

CONSTITUTION OF MAHARASTRA ELECTRICITY REGULATORY COMMISSION

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No.8/2018, dated 16th February, 2018** hereby notifies the constitution of Maharastra Electricity Regulatory Commission.

The 'Maharashtra Electricity Regulatory Commission', is a Commission constituted by the State Government of Maharashtra, in respect of the following specified income arising to that Commission, namely:-

1. Fees for Annual Licence;
2. Interest on Fixed Deposit and Savings Account;
3. Fees for Application / Petition filed;
4. Grants from Government of Maharashtra;
5. Fees for Documents;
6. Penalty for delayed payment of Annual Licence Fees;
7. Fees for RTI;
8. Sale of scrap.

The above mentioned income will be considered as income of Maharashtra Electricity Regulatory Commission if the following conditions are satisfied.

a) The 'Maharashtra Electricity Regulatory Commission' does not engage in any commercial activity;
b) The activities and the nature of the specified income of 'Maharashtra Electricity Regulatory Commission' remain unchanged throughout the financial years; and
c) The 'Maharashtra Electricity Regulatory Commission' files returns of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

EXPLANATORY NOTES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 2/2018, dated 15th February, 2018** hereby circulates the explanatory notes to the provisions of the finance Act,2017.

For detailed description reader may refer the above mentioned notification.

CONTRIBUTORY HEALTH SERVICE SCHEME

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No.8/2018, dated 16th February, 2018** hereby notifies the Contributory Health Service Scheme of the Department of Atomic Energy for the purposes of the clause clause (a) of sub-section (2) of section 80D of the IT Act 1961 for the assessment year 2018-2019 and subsequent assessment year.

LONG TERM CAPITAL GAIN UNDER FINANCE BILL 2018

OUR COMMENTS: long term capital gains arising from transfer of long term capital assets, being equity shares of a company or a unit of equity oriented fund or a unit of business trust, is exempt from income-tax.

Capital gain on transfer of Capital Assets shall be taxable @ 10 % if the following conditions are satisfied.:

1. In case of equity shares Security Transaction Tax should have been paid on sale as well as acquisition of the equity shares.
2. The period of holding is a minimum of twelve months.
3. The amount of capital gain should exceed ₹ 1,00,000. (Exempt up-to ₹ 1,00,000/-

The cost of acquisition for the purposes of computing capital gains referred to in sub-section (1) in respect of the long-term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of-

- the actual cost of acquisition of such asset; and
- the lower of-
    1. The fair market value of such asset; and
    2. The full value of consideration received or accruing as a result of the transfer of the capital assets.

CUSTOMS

NOTIFICATIONS/CIRCULARS

RATE OF EXPORT DUTY ON ELECTRODES

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 23/2018-Customs, dated 02nd February, 2018** hereby makes amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 27/2011–Customs, dated the 1st March, 2011 and declares the rate of export duty as Nil on Electrodes of a kind used for furnaces.

INCREASE OF IMPORT DUTY ON ALL TYPES OF SUGAR

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 24/2018-Customs, dated 02nd February, 2018** hereby makes amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), **No. 50/2017-Customs**, dated the 30th June, 2017 and increases the rate of import duty on all types of sugar under tariff head 1701, [Raw sugar, Refined or White sugar, Raw sugar if imported by bulk consumer] from the present 50% to 100% (Tariff rate) with immediate effect and without an end date.

INCREASE IN RATE OF BCD TARIFF ON CHANA (CHICKPEAS)

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 25/2018-Customs, dated 6th February, 2018** hereby Seeks to increase BCD tariff rate on Chana (Chickpeas), [Tariff item 0713 20 0] from 30% to 40% by invoking section 8A (1) of the Customs Tariff Act, 1975 and accordingly, the effective rate of BCD on Chana (Chickpeas), will also be 40%.

DETERMINATION OF TARIFF VALUE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 12/2018-CUSTOMS (N.T.), dated 15th February, 2018** hereby amends the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001and Fixes the Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver.

For detailed description readers may refer the above mentioned notification.

REDUCTION OF BCD ON MOTORCYCLES

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 16/2018-Customs, dated 12th February, 2018** hereby makes amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue), **No. 50/2017-Customs**, **dated the 30th June, 2017** so as to reduce the Basic Customs Duty on motorcycles falling under tariff heading 8711.

Motor cycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side cars, and side cars, new, which have not been registered anywhere prior to importation(1) as a completely knocked down (CKD) kit containing all the necessary components, parts or sub-assemblies, for assembling a complete vehicle, with-

a) engine, gearbox and transmission mechanism not in a pre-assembled condition, is charged to 15% rate of BCD.
b) engine or gearbox or transmission mechanism in pre-assembled form, not mounted on a body assembly is charged to 25% BCD.

(2) in a form other than (1) above is charged to 50% BCD.

NOTIFICATION OF EXCHANGE RATE

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 13/2018-CUSTOMS (N.T.), dated 15th February, 2018** hereby determines the rate of exchange of conversion foreign currencies which will be effective from 16th February, 2018.

DETERMINATION OF ORIGIN OF GOODS

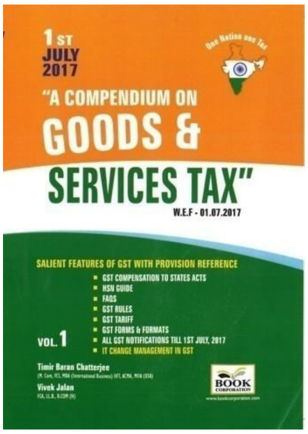
OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 14/2018-CUSTOMS (N.T.), dated 19th February, 2018** hereby makes Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Amendment Rules, 2018.

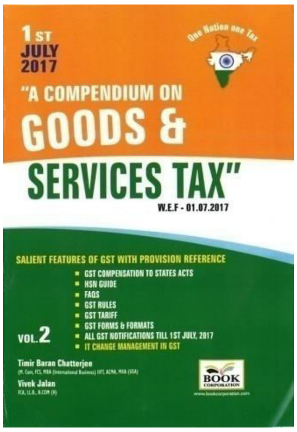
It will come into force on the 1st day of March, 2018.

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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