TAXCONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

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EDITORIAL

Friends,

The difficulties in the new taxation regime have resulted in the reduction of the taxation revenue. The government marked the month of September after which the revenue started hitting the bottom. During the roll-out, the serviceableness of GST was not in its optimum state and hence toppled. However, the records show that even after hardships the GST collections averaged around INR 90,000 till the month of September 2017 but started reducing post that.

As the loss cannot be ignored, the government has assured the sustenance of the taxation processes like return filings and e-way billing.

On the issue of verification of Transitional Credit claimed in form TRAN-1, the CBEC Chair person has written to all CCs vide D.O. F. No. 267/8/2018-CX.8. Steps shall be taken to verify the correctness of the Transitional credit taken, in a more focused and concerted manner. To facilitate the same, a detailed guidance note in Annexure-A has been issued to aid and assist the field formations in verification of transitional credit.

The verification shall be conducted in respect of the list of top 50,000 GSTINs in the order of transitional credit availed. Five sets of data have been generated in this regard in Annexure-B and have been uploaded on Antarang for ease of reference.

All Assesses must go through Annexure A & Annexure B as mentioned in the letter. They must prepare dossiers and keep it ready with all underlying documents and keep it ready for departmental scrutiny.

It may be reiterated that credit verification shall remain one of the focus areas in the year 2018-19.

Only few days are left to file the TRAN-2 form. Here we dwell upon some essential points of the form:
The form is only for traders.

- It is only for traders who were unregistered in Central Excise/ VAT

- The benefits of credits received are to be passed on by way of reduced pricing. This doesn't just mean that the benefits are to be passed on, it also means that details of all the tax payers who have filed this form may be sent to the Anti- Profiteering Committee and the tax officials may pay you a visit if it is a substantial amount.

- The document of procurement is required to avail the credit. This document may or may not be a tax invoice under previous tax laws.

- The form TRAN-2 should be filed very judiciously. The tax payer should determine whether its benefits outweigh its conditions. In case it is found by the authorities that incorrect claims were made then credits will be reversed along with interest. Penalty can also be levied but it will be at the discretion of the 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

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TAX CALENDAR

Due date	COMPLIANCES FROM 25th MARCH, 2018 to 31st MARCH, 2018	Description
31st March 2018	Income Tax	Due date of filing return in respect of previous year in case of assessees who have failed to file return on due dates
31st March 2018	GSTR 6	ISD - Return for input service distributor

GST: CGST

NOTIFICATIONS/CIRCULARS

CLARIFICATIONS ON EXPORTS RELATED REFUND ISSUES

OUR COMMENTS: The Department of Revenue, Ministryof Finance, Government of India, vide **Circular No.37/11/2018-GST, dated 15th March 2018** hereby circulated regarding clarifications on exports related refund issues.

Non-availment of drawback

The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.

Amendment through GSTR-1

It is advisable that while processing refund claims on account of zero rated supplies, information contained in Table 9 of FORM GSTR-1 of the subsequent tax periods should be taken into cognizance, wherever applicable.

Exports without LUT

Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies.

A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017 -GST dated 4th October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

Exports after specified period

Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India.

It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasised that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

For further information kindly refer the above mentioned circular.

ANALYSIS

INPUT SERVICE DISTRIBUTOR (ISD)

An Input service distributor (ISD) is an office of supplier of goods or services which receives tax invoices for services and distributes the credit in such invoices to its branches having the same PAN in the manner prescribed under the law. However, in order to distribute credit, following conditions are required to be followed:

- The credit can be distributed to the recipients of credit against a document containing the details as may be prescribed.
- The amount of credit distributed shall not exceed the amount of credit available for distribution.
- The input tax credit available for distribution in a month shall be distributed in the same month. E.G. Input Tax Credit for the month of July shall be distributed in the same month i.e. in the month of July only.

Procedure for distribution of credit

As per Section 20 with Rule 39the following procedure are to be adopted for distribution of credit

- The credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient.
- If the input services are attributable to more than one recipient of credit, the distribution shall be on the pro-rata basis of the turnover of such recipients in the state / union territory during the relevant period.However, if the Input services are common for all units, then it will be distributed according to the ratio of turnover of all the units in the relevant year.
- Eligible and ineligible input tax credits are required to be distributed separately.The credit on account of CGST, SGST, UTGST or IGST, each shall be distributed separately.

Credit and Debit Note

In case an additional credit is available to the ISD by the Supplier by issuance of Debit Note or any credit is reduced by the supplier to ISD by issuance of Credit Note, the additional credit shall be apportioned to each recipient in the same ratio in which the ITC contained in the original invoice was distributed. However, in case where due to reduction in credit, credit with the recipient becomes negative, the amount shall be added to the output liability of recipient.

Services taken under RCM

The ISD is not permitted to make payment of tax under RCM. Therefore, in a situation where the ISD is taking services which are taxable under RCM, it is suggested that either take a normal registration and take services in such registration and pass on the credit to ISD by raising an invoice on ISD. The other option is that the company can take such services in other existing normal registration and pass it on to ISD. Thereafter, the ISD can distribute the credits to the concerned units.

GST Returns

An ISD is required to file monthly return in GSTR-6 and will have to furnish information of all ISD invoices issued. The monthly return can be prepared after adding, correcting or deleting the details on the basis of details of credit available on the GST portal in GSTR – 6A.

The details in the returns will be made available to the respective recipients in their GSTR 2A. The recipients may include these in its GSTR-2 and take credit.

An ISD shall not be required to file Annual return.

Amount of tax credit distributed should not exceed the amount of tax credit available with the ISD as at the end of a relevant month to be filed in GSTR-6

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

APPOINTMENT OF OFFICERS FOR DISCHARGING OF STATUTORY DUTIES UNDER DELHI GST & VAT ACT

OUR COMMENTS: The Commercial Taxes Department, Government of BiharvideNotification **No.F.3(67)/Fin.(Rev.-I)/2017-18/DS-VI/140, dated 14th March 2018** hereby notifies regarding appointment of officers for discharging of statutory duties under Delhi GST & VAT Act.

It is further notified that in reference to Section 3 of the Delhi Goods and Services Tax Act, 2017 and Section 66(2)(a) of the Delhi Value Added Tax Act, 2004 (Delhi Act 03 of 2005), the Lt. Governor of the National Capital Territory of Delhi, is pleased to appoint the respective officers for discharging of statutory duties under these Act as per the acts enforce and with effect from the date of assumption of charge, to assist the Commissioner of State Tax and Value Added Tax, Government of National Capital Territory of Delhi, in the administration of the Acts.

For further information kindly refer the above mentioned notification.

GST REFUNDS

The GST regime is still in its nascent stage. The authorities have initiated processing of refund claims filed by exporters. In this context, the Government has issued Circular No. 37/11/2018-GST, dated 15 March 2018. This circular clarifies a plethora of issues surrounding refund claims under the GST regime.

The salient clarifications provided are summarized below:

- Refund of unutilized input tax credit of CGST/SGST/IGST/UTGST can be claimed if drawback of only basic customs duty has been availed.
- Refund of unutilized input tax credit of SGST can be claimed if drawback has been availed of central tax.
- The substantive benefit of refund should not be denied even if date of export is before the date of executing the LUT/bond. Delay in furnishing of LUT should be condoned on ex post facto basis after taking into account all relevant facts and circumstances
- In case of export under bond, Rule 96A of the CGST Rules gives a time limit of 15 days after the expiry of three months from the date of invoice for exporting goods. In case of services, the time limit for receipt of foreign exchange is 15 days after the expiry of 1 year from the date of invoice. The circular urges the authorities to consider granting an extension of this time limit on post facto basis, taking into account all relevant facts and circumstances
- In case of a discrepancy between values of GST invoice and shipping bill/bill of export, the lesser of the two values should be considered for computation of the refund claim amount
- The periodicity of refund claims is not specifically prescribed under the GST law. The circular clarifies that the refund may be filed monthly / quarterly or even after clubbing successive months or quarters. The only restriction imposed by the circular is that the clubbed periods should not spill over different financial years
- Under the erstwhile regime, quarterly refund claims were the norm. This clarification gives assessees the freedom to file refund claims on a bi-annual or even annual basis. This could help assessees reduce their administrative costs
- The concessional rate of tax of 0.1% on supplies to merchant exporters is optional. Assessees may choose to make supplies at the full rate of tax. Further, the concessional rate of 0.1% charged would be available as input tax credit to the exporter subject to fulfilment of the prescribed conditions

INCOME TAX

NOTIFICATIONS/CIRCULARS

E-ITR FORM

E-ITR Forms:

E-ITR forms means Income Tax Return Forms which are to be filed electronically. Many assesses have to compulsorily file E-ITR in prescribed form.

Tax laws are very complex:

It is well known that tax laws are very complex. At a particular time on an issue there may be different opinions prevailing, there can be different judgments of appellate authorities, Tribunal and Courts. In case of new provisions, there may not be any judicial precedence. Therefore, one has to rely on his own understanding with help of experts. On many issues difference of opinion prevails.

Claim not made in ITR may not be entertained by AO

Unless a claim is made in ITR or revised ITR, AO is not likely to accept any claim made during course of hearing by filing claim, revised computation etc. This is in view of judgment of the Supreme Court in case of Goetze (India) Limited v. CIT 2006 (3) TMI 75 - SUPREME Court :

Though that judgment was for period when E-ITR was not in vogue but the same is applied even in case of E-ITR. In case of physical ITR one can add some sheets to submit explanations and to make further claims for consideration of the AO. However, in E-ITR there appears no scope for any such submissions.

Therefore, in case of E-ITR it seems not possible to make any submissions, explanations and further claims.

Explanations are required:

In many situations where difference of opinion I prevailing or an claim is not free from doubt, it is desirable that assesse had an option to make explanation. In case of contentious issues it is desirable that assesse can put forth his submissions to substantiate his claim.

Some claims are made with caution, because of novelty of claim or related provision.

Some claims are not made in computation in ITR but are desirable to be made for consideration by the AO. This is because unless claim is made in ITR, it will not be considered by the AO.

Penalty provisions are also harsh, therefore, unless an explanation is submitted, and a claim is disallowed, there are chances of penalty being levied.

Extra sheets in E-ITR is desirable:

In view of above discussions, it is desirable that in E-ITR assesse be provided option to add extra sheets or specific pages be provided in excel format and word document format or PDF format in which assesse can mention his explanations and further claims for consideration of the AO.

It is not difficult to provide such sheets:

It is not difficult to provide provision for extra sheets or attachments to ITR in which one can add explanations and further claims for consideration by the AO. At present we find that in Excel format of ITR we can add extra sheet but it is not saved to become part of ITR to be uploaded.

With some changes in format and related software extra sheets in any of format like Excel sheet, word document or PDF document or any other suitable format it can be added as part of E- ITR. Or option to attach any file can be provided.

CUSTOM

NOTIFICATIONS/CIRCULARS

REDUCTION IN EXPORT DUTY ON RAW SUGAR, WHITE OR REFINED SUGAR FROM 20% TO NIL

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No. 30/2018-Customs, dated 20th March, 2018** hereby notifies regarding reduction in export duty on raw sugar, white or refined sugar from 20% to Nil.

It is further notified that in reference to section 25(1) of the Customs Act, 1962 the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes amendment in the **Notification No. 27/2011-Customs, dated 1st March, 2011.**It is stated that the export duty on raw sugar, white or refined sugar is nil.

EFFECTIVE RATES OF CUSTOMS DUTY AND IGST FOR GOODS IMPORTED INTO INDIA

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.31/2018-Customs, dated 20th March, 2018** hereby notifies regarding effective rates of Customs duty and IGST for goods imported into India.

It is further notified that Kabuli Chana with HSN code 0713 20 00 is charged with 40% of Standard rate of duty with nil IGST and no conditions applied.

For further information kindly refer the above mentioned notification.

AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.22/2018-Customs (N.T.), dated 20th March, 2018** hereby makes amendments in the First Schedule to the Customs Tariff Act, 1975.

For further information kindly refer the above mentioned notification.

ANTI-DUMPING DUTY ON 'METAPHENYLENE DIAMINE', ORIGINATING IN, OR EXPORTED, FROM CHINA PR

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.10/2018-Customs (ADD), dated 20th March, 2018** hereby notifies regarding anti-dumping duty on 'MetaphenyleneDiamine', originating in, or exported, from China PR.

It is stated that the designated authority vide Notification No. 7/2/2018-DGAD, dated 26th February 2018, has initiated review, in terms of section 9A(5) of the Customs Tariff Act, 1975 and in pursuance of rule 23 of the Customs Tariff Rules, 1995 in the matter of continuation of anti-dumping duty on 'MetaphenyleneDiamine', originating in, or exported, from China PR, imposed vide Notification No.11/2014-Customs (ADD), dated 11th March 2014, and has requested for extension of anti-dumping duty for a period of one year from the date of initiation of said review , in terms of section 9A(5) of the Act, pending the completion of the review.

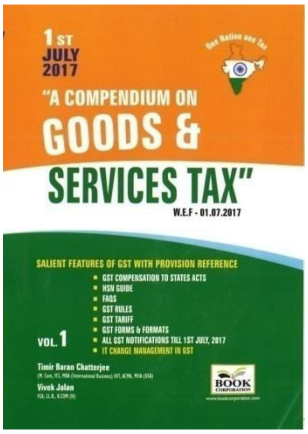
Moreover in reference to section 9A(1) and section 9A(5) of the Act and in pursuance of rule 23, the Central Government hereby makes amendments in the Notification No. 11/2014-Customs (ADD), dated 11th March 2014 and it states that Notwithstanding anything contained in paragraph 2 this notification shall remain in force upto and inclusive of the 21st March, 2019 unless revoked earlier.

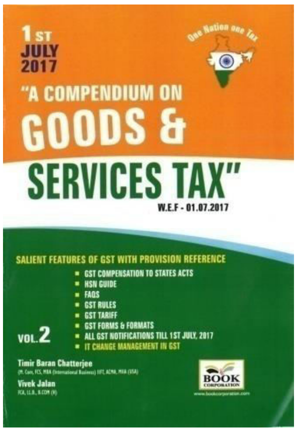
For further information kindly refer the above mentioned notification.

AVAILABLE IN STANDS

A COMPENDIUM ON GOODS & SERVICES TAX

(Including ALL Notifications till 09th July, 2017)





ABOUT THE BOOK: PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. Section-wise Compilation of IT Changes under GST
2. The GST Rates as finalised by The GST Council along with the HSN Code Referencer.
3. FAQs on GST
4. CGST, IGST, UTGST and The GST Compensation to States Acts
5. The Rules related to GST available in public Domain as on 17th June 2017.
6. The Forms and formats related to GST available in public Domain as on 17th June 2017.

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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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