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EDITORIAL

Friends,

Advance Rulings under GST are coming in thick and fast. AUTHORITY FOR ADVANCE RULING , NEW DELHI in the matter of M/s. Rod Retail Private Limited has ruled that supply from the shop located in the Security Hold Area of the IGI International Airport to an International outbound passengers holding international boarding pass cannot be said to be export. The applicant was not taking goods out of India and hence their supply could not be called “export” under Section 2(5) of the IGST Act, 2017 or “zero rated supply” under Section 2(23) and Section 16(1) of the IGST Act, 2017. Accordingly, the applicant was required to pay GST at the applicable rates.

Each advance ruling is providing a point of view of the Department. However it is also leaving a lot of questions unanswered. Recently there was an advance ruling wherein it was ruled that recovery of food expenses from the employees for the canteen services provided by company would come under the definition of 'outward supply' as defined in Section 2(83) of the Act, 2017, and therefore, taxable as a supply of services under GST. Analysing the above, there are number of questions which we have tried to analyse as follows -

1. As per clause -2 of the Schedule-1 of the CGST Act,2017, if the goods or services are supplied without consideration to the related person or distinct person, the same shall be treated as supply. Therefore, this transaction is taxable.
2. As per section 15[1] of CGST Act,2017, the valuation of the transaction will be at transaction value if the supplier and recipient is not related person and price charged shall be the sole consideration. Here, in the above case, the employer and employee is related person as defined in Explanation to Section-15 of the CGST Act,2017 . Therefore, Section 15 of CGST will be apply and accordingly cost of the food shall be determined as per Rule 28 and 30 of the CGST Rules, 2017.
3. Since in this particular case, there is outward of food, hence allow ability of ITC on the above service may be dwelled upon.
4. Whether GST will be charged from the employees, the answer is ‘yes’ as provided in Section-15[2][a]of the CGST Act,2017.

Further, **Circular 42/16/2018-GST CBEC-20/16/03/2017-GST**, has clarified regarding regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit as follows –

EDITORIAL

i) Recovery of arrears of wrongly availed CENVAT Credit.

ii) Recovery of CENVAT Credit carried forward wrongly.

iii) Recovery of arrears of central excise duty and service tax:

iv) Recovery of interest, penalty and late fee payable

v) Payment of central excise duty & service tax on account of returns filed for the past period

Circular No. 41/15/2018-GST CBEC-20/16/03/2017-GST has clarified regarding Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances - Goods and Services Tax

In Income Tax, In case of a company, an application for incorporation, allotment of Permanent Account Number (PAN) and allotment of Tax Deduction and Collection Account Number (TAN) may be made through a Common Application Form submitted to the Ministry of Corporate Affairs (MCA). In these cases, the Certificate of Incorporation (COI) issued by MCA contains a mention of both PAN and TAN. Finance Act, 2018 amended section 139A of the Income-tax Act, 1961 removed the requirement of issuing PAN in the form of a laminated card. Hence, it is clarified that PAN and TAN mentioned in the COI issued by MCA shall also be treated as sufficient proof of PAN and TAN for the said company assessees.

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 22ND APRIL, 2018 to 28TH APRIL, 2018	Description
25th April 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.

GST: CGST

NOTIFICATIONS/CIRCULARS

FURNISHING OF BOND/LETTER OF UNDERTAKING FOR EXPORTS

OUR COMMENTS: The Department of Revenue, Ministryof Finance, Government of India, vide **Circular No. 40/14/2018-GST dated 06th April 2018** hereby notifies regarding clarification on issues related to furnishing of Bond/Letter of Undertaking for exports.

It is further stated that various communications have been received from the field formations and exporters that the LUTs being submitted online in FORM GST RFD-11 on the common portal are not visible to the jurisdictional officers of Central Board of Indirect Taxes and Customs and of a few States. Therefore, a need was felt for a clarification regarding the acceptance of LUTs being submitted online in FORM GST RFD-11.

Accordingly, in partial modification of Circular No. 8/8/2017-GST dated 4th October, 2017, hereby replaced by the following:

- Form for LUT: The registered person (exporters) shall fill and submit FORM GST RFD-11 on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.
- Documents for LUT: No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.
- Acceptance of LUT/bond: An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio."

For further information kindly refer the above mentioned circular.

QUERIES REGARDING PROCESSING OF REFUND APPLICATIONS FOR UIN AGENCIES

OUR COMMENTS: The Department of Revenue, Ministryof Finance, Government of India, vide **Circular No. 43/17/2018-GST dated 13th April 2018** hereby notifies regarding processing of refund applications for UIN agencies.

Providing statement of invoices while submitting the refund application

The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules,2017 which provides for filing of refund on a quarterly basis in FORM RFD-10 along with a statement of inward invoices in FORM GSTR-11. It has come to the notice of the Board that the print version of FORM GSTR-11 generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated FORM GSTR-11 does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.Further, the officers are advised not to request for original or hard copy of the invoices unless necessary.

No mention of UINs on Invoices

It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency.

GST: IGST

ANALYSIS

SERVICE OF NOTICES UNDER GST

The statutory provisions for service of notices etc in certain circumstances are provided in section 169 of the CGST Act, 2017.

Methods of Service of Documents

Various methods of service of any decision, notice, order, summon or any other communication under the Act or Rules have been provided in section 169, are as follows:

- By giving or tendering it directly or through a messenger or courier to the addressee or the taxable person or to his manager or to person duly authorized or an advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the taxpayer or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxpayer, or
- By registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised agent, if any at his last known place of business or residence, or
- By sending a communication to his e-mail address, provided at the time of registration or as amended from time to time or
- By making it available on common portal, or
- By publication in a newspaper circulating in the locality of taxpayer or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain, or
- If none of the above is practicable, by affixing it in some conspicuous place on his last known place of business or residence address, or
- If such affixing is also not practicable, by affixing a copy thereof on the notice board of the officer who has passed such decision or order or issued such summons or notice.

The meaning of terms such as authorised representative, common portal, tax practitioner etc shall be governed by the definitions provided in GST law or rules, as the case may be.

What documents require service

Service may be required in relation to any of the following :

- Any decision
- Any order
- Other communication such as letter of enquiry, notice of hearing, seeking details or information, audit report, recovery notice etc.

These terms have not been defined but shall take their meanings under General Clauses Act. Such communications are required for administration of the tax law under various provisions.

When deemed to be served

Every decision, order, summon, notice or any communication shall be deemed to have been served to the addressee on the date on which it is tendered or published or a copy thereof is affixed in the manner as provided in section 169(1) of the CGST Act, 2017

Service in case of registered or speed post

Any decision, order, summons, notice or any other communication shall be deemed to be served where such communication is sent by registered post or speed post in terms of section 169 (3). Accordingly, when any such communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by a registered/speed post letter in transit unless contrary is proved.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXTENTION OF THE TIME LIMIT FOR FURNISHING THE DETAILS OR RETURN DETAILS OF OUTWARD SUPPLY OF GOODS OR SERVICES OR BOTH IN FORM GSTR-1

OUR COMMENTS: The Commercial Taxes Department, Government of Biharvide**Notification No.S.O. 163 - Bihar SGST, dated 03rd April 2018** hereby notifies regarding extension of time limit for filing FORM GSTR-1.

In exercise of the powers conferred by section 148 of the Bihar Goods and Services Tax Act, 2017 the Governor of Bihar, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

It is further stated that the details of outward supply of goods or services or both are furnished in FORM GSTR-1 effected during the quarter April to June, 2018 till the 31st day of July, 2018.

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

This notification shall come into force with effect from 28th March, 2018.

APPLICATION FOR REFUND OF TAX PAID BY IT ON INWARD SUPPLIES OF GOODS OR SERVICES OR BOTH.

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide**Notification No.S.O. 164 - Bihar SGST, dated 03rd April 2018** hereby notifies regarding the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both.

As per section 55 of the Bihar Goods and Services Tax Act, 2017 the Government may, on the recommendations of the Council, by notification, specify any specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations Act, 1947 Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf (hereafter in this notification referred to as the specified persons), who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

Whereas, as section 54(2) of the said Act, the specified persons, as notified under section 55 of the said Act, are entitled to a refund of tax paid by them on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received. The facility for filing the claim of refunds under section 55 of the said Act has been made available on the common portal recently.

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Governor of Bihar, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, before the expiry of eighteen months from the last date of the quarter in which such supply was received.

This notification shall come into force with effect from 28th March, 2018.

INCOME TAX

NOTIFICATIONS/CIRCULARS

PROCEDURE FOR REGISTRATION AND SUBMISSION OF STATEMENT OF FINANCIAL TRANSACTIONS (SFT)

OUR COMMENTS: The Department of Revenue, Ministryof Finance, Government of India, vide **Notification No.3 of 2018 dated 05th April 2018** hereby notified regarding procedure for registration and submission of statement of financial transactions (SFT) as per section 285BA of Income-tax Act, 1961 read with Rule 114E of Income-tax Rules.

The Principal Director General of Income-tax (Systems) hereby lays down the following procedures:

- Already registered reporting persons/entities on e-filing portal: The registration details of already registered reporting persons/entities have been migrated from e-filing portal to reporting portal. The registered users of such reporting persona/entities shall be communicated of their new login credentials through registered email to be used at Reporting Portal
- New Registration, Generation of Income Tax Department Reporting Entity Identification Number (ITDREIN) and Principal Officer: The reporting person/entity is required to get registered with the Income Tax Department by logging in to the e-filing website (https://incometaxindiaefiling.gov.in/) with the log in ID used for the purpose of filing the Income Tax Return of the reporting person/entity. On successful submission, the ITDREIN is generated and the principal officer will receive a confirmation e-mail on his/her registered e-mail address and SMS at his/her registered mobile number. There will be no option to de-activate ITDREIN, once it is generated.
- Addition of Designated Director: The reporting person/entity is required to submit the details of designated director either at the time of new registration or at later stage, but before any statement is submitted on reporting portal. The designated director will receive a confirmation e-mail with login credentials for login into reporting portal (https://report.insight.gov.in) at his/her registered email address. Only, the designated director of the reporting person/entity can digitally sign and upload the Statement of Financial Transaction (SFT) and the corresponding correction statements, if any through his/her own login credentials at the reporting portal or through Generic submission Utility.
- Submission of Form No. 61A: Every reporting person/entity is required to submit the Statement of Financial Transaction (SFT) in Form No. 61A. General and transaction specific guidelines for preparation of SFT in the specified format is enclosed as Annexure B and Annexure C respectively. The prepared SFTs to be filed is required to be digitally signed by and uploaded at the reporting portal or through Generic Submission Utility through the login credentials (PAN and password) of the designated director.
- Submission of correction statement: In case, the reporting person/entity comes to know or discovers any inaccuracy in the information provided in the statement or the defects have been communicated to the reporting person/entity through Data Quality Report (DQR) after submission of Statement, it is required to remove the defects by submitting a correction statement. The reporting person/entity needs to rectify all the defects till the number of "Reports Requiring Correction (RRC) becomes zero within specified time.
- Deletion of Submitted Reports in a statement: In case, the reporting person/entity wishes to delete the inadvertently filed reports within a statement, it can choose the statement type as "Deletion Statement" and file all such reports within a single statement to be deleted with exact previously filed values against each field. The manner of filing Deletion Statement shall be similar to submission of correction statement.
- Security, archival and retrieval policies: The reporting person/entity is required to document and implement appropriate information security policies and procedures with clearly defined roles and responsibilities to ensure security of submitted information and related information/documents. The reporting person/entity is also required to document and implement appropriate archival and retrieval policies and procedures with clearly defined roles and responsibilities to ensure that submitted information and related information/documents are available promptly to the competent authorities.

CUSTOM

NOTIFICATIONS/CIRCULARS

EXCHANGE RATES NOTIFICATION

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.31/2018 - Customs (N.T.)dated 5th April, 2018** hereby determines the rate of exchange of conversion of each of the foreign currencies of Schedule I and Schedule II into Indian currency or vice versa, shall, with effect from 6th April, 2018, be the rate mentioned below relating to imported and export goods.

SCHEDULE-I

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	(For Imported Goods)	(For Export Goods)
Australian Dollar	51.05	49.30
Bahrain Dinar	178.30	166.95
Canadian Dollar	51.90	50.15
Chinese Yuan	10.50	10. 15
Danish Kroner	10.95	10.50
EURO	81.20	78.50
Hong Kong Dollar	8.40	8.15
Kuwait Dinar	224.35	209.70
New Zealand Dollar	48.45	46.55
Norwegian Kroner	8.45	8.15
Pound Sterling	93.05	90.05
Qatari Riyal	18.40	17.40
Saudi Arabian Riyal	17.95	16.80
Singapore Dollar	50.40	48.75
South African Rand	5.65	5.30
Swedish Kroner	7.90	7.60
Swiss Franc	68.80	66.55
UAE Dirham	18.30	17.15
US Dollar	65.90	64.20

SCHEDULE-II

Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
	(For Imported Goods)	(For Export Goods)
Japanese Yen	61.90	59.80
Kenyan Shilling	64. 90	60.65

IMPOSITION OFADD ON THE IMPORTS OF " PHOSPHORUS PENTOXIDE" ORIGINATING IN OR EXPORTED FROM CHINA PR

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.19/2018-Customs (ADD)dated 5th April, 2018** hereby notifies regarding imposition of definitive anti-dumping duty on the imports of " Phosphorus Pentoxide" originating in or exported from China PR.

It is further stated that in the matter of “Phosphorus Pentoxide” falling under the First Schedule to the Customs Tariff Act, 1975 originating in, or exported from China PR and imported into India, the designated authority in its final findings vide Notification No.14/47/2016-DGAD dated 05th March, 2018, has come to the conclusion that–

- The product under consideration has been exported to India from the subject country below the normal value;
- The domestic industry has suffered material injury on account of dumped imports from the subject country;

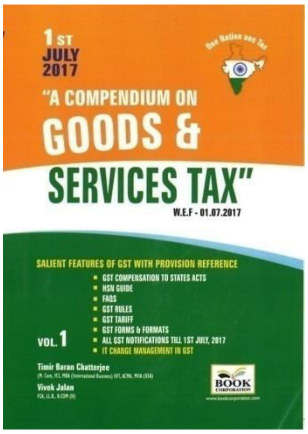
Moreover the designated authority has recommended the imposition of definitive anti-dumping duty on the imports of subject goods, originating in or exported from the subject country and imported into India, in order to remove injury to the domestic industry.

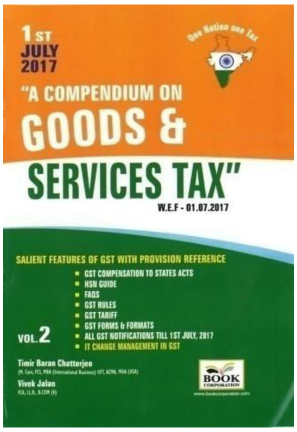
The anti-dumping duty imposed shall be effective for a period of five years from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

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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