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EDITORIAL

Friends,

In first nine months of Financial Year 2017-18 when GST was in force w.e.f. 1st July, 2017, GST collections have averaged @ ₹ 89800 crore per month. Effectively it is for eight months as GST is collected in the following month. The GST collection in 2017-18 (9 months) has averaged @ ₹ 89800 crore per month which is on a lower side (provisional but including cess totaling ₹ 7.41 lakh crore).

For the first time, GST collection has crossed ₹ 1 lakh crore mark in April 2018. However, this collection pertains to economic activities generated and performed in March, 2018 or earlier based on tax invoices issued during the relevant period. GST collections in April, 2018 amount to ₹ 103458 crore.

According to Ministry of Finance Press Release dated 27.04.2018, the total gross GST revenue collected in the month of April 2018 is ₹ 1,03,458 crore of which CGST is Rs,18652 crore, SGST is ₹ 25,704 crore, IGST is ₹ 50,548 crore (including 21,246 crore collected on imports) and Cess is ₹ 8554 crore (including ₹ 702 crore collected on imports). The total revenue earned by Central Government and the State Governments after settlement in the month of April, 2018 is ₹ 32,493 crore for CGST and ₹ 40,257 crore for the SGST.The buoyancy in the tax revenue of GST reflects the upswing in the economy and better compliance.

However, it is usually noticed that in the last month of a financial year, people also try to pay arrears of some of the previous months also and, therefore, this month's revenue cannot be taken either as trend for the future or a signal of economic recovery. It is just a reflection of hectic economic activities in the last month of the financial year.

The data indicates that there are more economic activities in inter-state than intra-state as IGST collected is 48% of total tax where as aggregate of CGST and SGST is 43% only. In case of inter-state transactions, only IGST is charged @ GST rate which is sum of rate for CGST and SGST whereas in intra-state transactions, 50% of IGST rate is charged each as CGST and SGST.

People in Government and economists look at it in their own way attributing this so called achievement to better compliances and economic revival. If one looks at tax collections in pre-GST regime, this is not an achievement. Two major central taxes (Central Excise Duty and Service Tax) alone amounted to about ₹ 7 lakh crore. If we add other taxes including value added tax of all states it would lead to the conclusion that there a nothing worth celebrating. One needs to wait, watch and see if this could be sustained over a period. It also need to grow atleast at a pace at which economy is growing. GST Council has set a target of ₹ 12 trillion for GST collection for 2018-19, buoyed by higher tax compliance in first year of GST regime.

However, Government should look at the revenue collection over a period, say, atleast on a quarterly basis. A ray of hope can be seen in the e-way bill system which may lead to better tax compliances and act as a deterrent for tax evasion and tax avoidance. Tax collections may also rise when TDS / TCS provisions are brought into action in near future.

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 13TH MAY, 2018 to 19TH MAY, 2018	Description
15th MAY 2018	Income Tax TCS: Form No. 27EQ	Quarterly Statement of collection of tax at source (TCS) for the Quarter Ending March 31.

GST: CGST

NOTIFICATIONS/CIRCULARS

E-WAY BILL

Implementation of e-way bill

The implementation of e-way bill has caused more delay because of the improvements to be done in the portal system. The Central Government has announced that the e-way bill system would be applicable for the inter-State transactions with effect from 01.02.2018 and the States would implement the e-way bill system for intra-State transactions by 1st June, 2018. Because of the glitches in the system, the Central Government postponed the implementation date and finally it has been implemented with effect from 01.04.2018. The States are advised to implement the same before 1st June, 2018.

E-way bill operations are now available for the following States-

- E-way bill operations are compulsory for intra-state movement of goods for Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh from 15th April 2018;
- E-way bill operationsare compulsory for intra-state movement of goods for Bihar, Haryana, Himachal Pradesh, Jharkhand, Tripura and Uttarakhand from 20th April 2018;
- E-way bill operationsare compulsory for intra-state movement of goods for Arunachal Pradesh, Madhya Pradesh, Meghalaya, Puducherry and Sikkim from 25th April 2018;
- E-way bill operations are compulsory for intra-state movement of goods for Nagaland from 1st May 2018.

The High Court observed that Rule 138 provides that till such e-way bill system is developed and approved by the Council, the Government by notification may specify the documents which are to be carried with the consignment of goods.

It is not in dispute that the condition of accompanying the e-way bill with respect to inter-State transaction is mandatory with effect from 01.04.2018, whereas in the present case the transaction is much before the aforesaid date.

In the present case, all the documents were accompanied the goods, details are duly mentioned which reflects from the perusal of the documents.

Merely of non-mentioning of the vehicle no. in Part-B cannot be a ground for seizure of the goods. The High Court held that seizure order did not sustain. The High Court directed to release the goods with vehicles.

The e-way bill system is moving smoothly after introduction of e-way bill for inter-State transactions. If all the States implement this system it is hoped that the system will work efficiently.

However problems in relation to e-way bill are inevitable because of latches on the part of the consignors, transporters and also on the misinterpretation of Statutes.

GST: IGST

ANALYSIS

DEEMED SUPPLY IN JOBWORK

There are numerous issues which surrounds the concept of job work under the GST regime which requires clarity and the latest **Circular no. 38/12/2018 dated 26.03.2018** apparently tries to bring in clarity to certain issues related to job work. Though the said circular provides clarity on the procedural aspects, it brings more confusion than clarification on certain legal aspects especially the valuation provisions clarified therein.

Section 143(3) and (4) of the CGST Act, in short, states that where the inputs or capital goods (other than moulds and dies, jigs and fixtures, or tools) sent for job work are not received back by the principal within the period of one year or three years of their being sent out, it shall be deemed that such inputs or capital goods respectively had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out.

The aforesaid provision brings in the concept of "deemed supply" wherein the principal is treated as the supplier and job worker as the recipient. The deemed supply is triggered because the goods (either inputs or capital goods) which has been sent for job work has not been received back within the time frame provided under the GST law and hence the benefit of non-payment of GST enjoyed by the principal at the time of sending the goods to job worker must be paid back to the government. The circular also clarifies that the date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax.

Before making the payment of tax and interest for such deemed supply basis the circular, one must ascertain "what is the nature of such deemed supply"'. There can be two possibilities:-

- Supply of Goods or
- Supply of Services

The circular clarifies that if such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST, if registered. If job worker is unregistered, then principal has to pay under reverse charge mechanism which is kept in abeyance till 30th June 2018.

Thus, unlike CENVAT Credit Rules, 2004, the provisions of CGST Act or the CGST Rules does not provides any mechanism for re-availing the GST paid (except in case of reverse charge, if applicable) for the deemed supply since it is considered as "output tax" in the hands of the principal and the entire idea behind deeming that the supply has taken place after the expiry of the stipulated period is to ensure that the benefit of non-payment of GST at the time of removal of goods for job work is recovered at a later stage with applicable interest.

However, the 'Deemed supply" concept can only create chaos in Job work sector and fresh set of litigations which is clearly evident from the points discussed above and summarized below:

- Payment of GST by the principal with no option for re-availing such GST paid by the principal when goods are received back (except in case of reverse charge)
- Non-availment of credit in the hands of the job worker (who is not related) or Forcing the payment in the hands of the job worker for availing the credit
- Invoicing by the job worker by including the value of goods "deemed to have been supplied" by the principal so that job worker can utilize such credit for payment of tax so that principal can re-avail the credit.
- Instead of bringing the concept of "deemed supply" in the provisions of CGST Act and making the principal liable to remit the tax, the same result could have been best achieved in case similar provisions under the CENVAT Credit Rules, 2004 (which was time tested) was re-introduced in the CGST Rules under the chapter of input tax credit. Provisions for re-availment of such credit reversed / paid when the goods are received after job work process by the principal must also be provided for.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXTENSION OF DATE FOR SUBMITTING THE STATEMENT IN FORM GST TRAN-2

OUR COMMENTS: The Commercial Taxes Department, Government of Assam vide**Notification No.01/2018-GSTdated5th May, 2018** hereby notifies regarding the extension of date for submitting the statement in FORM GST TRAN-2.

In exercise of the powers conferred by sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Assam Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for furnishing the statement in FORM GST TRAN-2 under sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Assam Goods and Services Tax Rules, 2017 till the 30th day of June, 2018.

For further information kindly refer the above mentioned notification.

INCIDENCE OF GST ON PROVIDING CATERING SERVICES IN TRAIN

OUR COMMENTS: The Commercial Taxes Department, Government of Assam vide**Notification No. 02/2018-GSTdated 5th May, 2018** hereby notifies regarding the Incidence of GST on providing catering services in train.

It is stated that the different GST rates are being applied for mobile and static catering in Indian Railways which is presently leading to a situation whereby the same licensee (selected by Indian Railways/IRCTC) supplying the same food would be subjected to different GST rates depending on whether it is mobile or static catering, as also which variant of mobile catering it is [pre-paid (without option), pre-paid (with option) or post-paid]. The rate difference is resulting in the same food being supplied at two different rates to the railway passengers, which is anomalous.

Moreover the passenger may not be aware about the GST rate applicable to the food ordered by him/her. This may also lead to unnecessary litigation and thus further strengthens the need for uniform application of tax rate in respect of food and drinks in/by Railways.

With a view to remove any doubt or uncertainty in the matter and bring uniformity in the rate of GST applicable for all kinds of supply of food and drinks made available in trains, platforms or stations, the Commissioner with the approval of GST Implementation Committee, hereby clarifies that the GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), will be 5% without ITC.

INTRODUCTION OF INTRA-STATE E-WAY BILL

OUR COMMENTS: The Commercial Taxes Department, Government of Assam vide**Notification No. 02/2018-GSTdated 5th May, 2018** hereby notifies regarding the introduction of intra-state e-way bill.

In exercise of the powers conferred by clause (d) of sub-rule (14) of rule 138 of the Assam Goods and Services Tax Rules, 2017 and in consultation with the Central Tax Authority, the Commissioner hereby notifies that the provisions of the e-way bill rules for intra-state movement of goods (movement of goods which commences and terminates within the State of Assam) shall be effective from 16th day of May, 2018.

The Notification No. 4/2018-GST dated the 27th March, 2018 issued by Commissioner of State tax, Assam also stands rescinded from the date of effect of this notification.

This notification shall come into force with effect from 16th day of May, 2018.

For further information kindly refer the above mentioned notification.

INCOME TAX

NOTIFICATIONS/CIRCULARS

AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES

OUR COMMENTS: The Department of Revenue, Ministryof Finance, Government of India, vide **Notification No.21/2018 dated 4th May, 2018**hereby notified regarding Agreement between the Government of the Republic of India and the Government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes.

It is further notified thatthe protocol amending the agreement between the Government of the Republic of India and the Government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which was signed at New Delhi on 15th June, 2006 has been signed at Kuwait on the 15th January, 2017, as set out in the Annexure appended to this notification.

Moreover, the date of entry into force of the said amending Protocol is 26th March, 2018, being the date of the later notification of the completion of domestic requirements for the entry into force of the said amending Protocol, in accordance with Article 3 of the said amending Protocol.

For further information kindly refer the above mentioned notification.

CENTRAL GOVERNMENT REGARD TO THE NATIONAL INTEREST, NOTIFIES THE FOREIGN COMPANIES AND AGREEMENT

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No.22/2018 dated 8th May, 2018** hereby notified regarding Central Government for the national interest, stating the foreign companies and agreement.

In exercise of the powers conferred by clause (ii) of the provison to clause (48A) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the national interest, hereby notifies the following foreign companies and agreement, for the purposes of the said clause, namely : -

- Abu Dhabi National Oil Company, ADNOC Marketing International Limited, and ADNOC Marketing International (India) RSC Limited, as the foreign companies; and
- the Oil Storage and Management Agreement, dated the 25th of January, 2017, entered into by and between Indian Strategic Petroleum Reserves Limited and Abu Dhabi National Oil Company read with the Amended and Restated Oil Storage and Management Agreement, dated the 10th of February 2018, entered into by and between Indian Strategic Petroleum Reserves Limited, Abu Dhabi National Oil Company and ADNOC Marketing International (India) RSC Limited, as the agreements.

This notification shall come into force from the date of its publication in the Official Gazette.

For further information kindly refer the above mentioned notification.

CUSTOM

NOTIFICATIONS/CIRCULARS

PROVIDING PROVISIONAL ASSESSMENT OF JUTE GOODS EXPORTED FROM BANGLADESH

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministryof Finance, Government of India vide **Notification No.24/2018-Customs (ADD)dated 7th May, 2018** hereby notifies regarding providing provisional assessment of jute goods exported from Bangladesh by M/s Roman Jute Mills Ltd.(Producer/Exporter) and M/s SMP International, LLC, USA (Exporter/Trader) till the final findings of New Shipper Review in this regard are received.

It is further stated that in the matter of import of 'Jute Products' namely, Jute Yarn/Twine (multiple folded/cabled and single), Hessian fabric, and Jute sacking bags originating in, or exported from Bangladesh and Nepal (hereinafter referred to as subject countries) and imported into India, the designated authority, vide its final findings in notification No. 14/19/2015-DGAD, dated the 20th October, 2016, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 20th October, 2016 had come to the conclusion that-

- there is dumping of subject goods from the subject countries;
- imports from subject countries are undercutting and suppressing the prices of the domestic industry;
- performance of domestic industry has deteriorated in the terms of profitability return on investments and cash flow;
- injury to domestic industry has been caused by dumped imports;

It had been recommended to continued imposition of definitive anti-dumping duty on imports of the subject goods originating in, or exported from, the subject countries;

Moreover on the basis of the aforesaid findings of the designated authority, the Central Government had imposed an anti-dumping duty on the subject goods, vide, notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 01/2017-Customs (ADD), dated the 5th January, 2017, published vide number G.S.R. 11(E) in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 5th January, 2017;

The provisional assessment may be subject to such security or guarantee as the proper officer of customs deems fit for payment of the deficiency, if any, in case a definitive anti-dumping duty is imposed retrospectively, on completion of investigation by the designated authority.

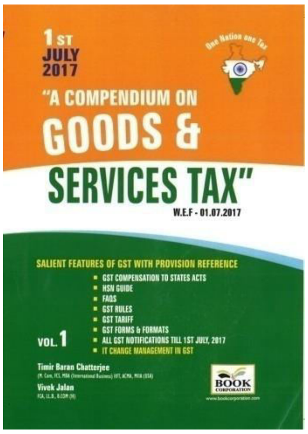
In case of recommendation of anti-dumping duty after completion of the said review by the designated authority, the importer shall be liable to pay the amount of such anti-dumping duty recommended on review and imposed on all imports of subject goods when originating in or exported from Bangladesh by M/s. Roman Jute Mills Ltd. (Producer/Exporter) and M/s SMP International, LLC, USA (Exporter/ Trader) and imported into India, from the date of initiation of the said review.

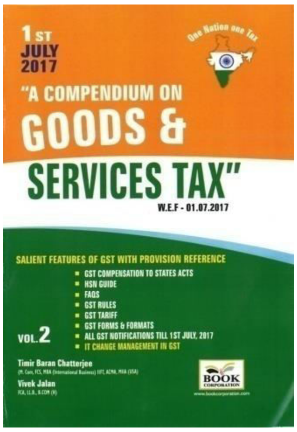
For further information kindly refer the above mentioned notification.

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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