TAXCONNECT
173rd Issue: 27th May 2018 - 02nd June 2018

TAX CONNECT

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INCOME TAX

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EDITORIAL

Friends,

This week we will discuss the admissibility of input tax credit on inputs sent to a job worker.

Job-worker performs treatments or processes on goods belonging to the principal.

The input tax credit shall be admissible on inputs and capital goods sent to the job-worker either by the principal from its place of business or directly from the seller's place of business, but this is subject to certain conditions and restriction in terms of documentation and process which needs to be complied with strictly.

The input tax credit on inputs sent to a job-worker for job-work shall be admissible to the principal. However, for the purpose of availment of such credit the principal needs to comply with the specified conditions and stipulations.

Further, there is condition precedent to the availment of input tax credit i.e. goods must be received by the registered taxable person. However, if goods are directly sent to the job-worker on behalf of the principal, without being physically received by the principal at its place of business, then also it shall be presumed that the goods are received by the principal and the input tax credit shall be admissible.

It is essential to note that where the inputs sent for job-work are not received back by the principal after completion of job-work or otherwise or are not supplied from the place of business of the job worker within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out and the tax liability shall accrue from such date.

However, the period of one year in case where the inputs are sent directly to a job-worker, the period of one year shall be counted from the date of receipts of inputs by the job-worker.

<u>Process of sending goods on job-work</u>

In order to send goods to job worker the principal needs to follow the under-mentioned process-

- The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker. This challan shall be issued in three copies as -
    - the original copy being marked as ORIGINAL FOR CONSIGNEE;
    - the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
    - the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

EDITORIAL

- The challan issued by the principal to the job worker shall contain the following details –
  - date and number of the delivery challan;
  - name, address and Goods and Service Tax Identification Number of the consigner, if registered;
  - (iii)name, address and Goods and Service Tax Identification Number or Unique Identity Number of the consignee, if registered;
  - Harmonised System of Nomenclature code and description of goods;
  - Quantity(provisional, where the exact quantity being supplied is not known);
  - taxable value;
  - tax rate and tax amount-central tax, State tax, integrated tax, Union Territory tax or cess, where the transportation is for supply to the consignee;
  - place of supply, in case of inter State movement; and
  - signature
- The details of challan in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be included in FORM GST ITC-04 furnished for the period on or before the twenty-fifth day of the month succeeding the said quarter.
- Where the inputs or capital goods are not returned to the principal within the time stipulated, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job-worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 (Return for outward supply details) and the principal shall be liable to pay the tax along with the applicable interest.

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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TAX CALENDAR

Due date	COMPLIANCES FROM 27TH MAY, 2018 to 02ND JUNE, 2018	Description
30TH MAY 2018	Income Tax Form No. 27D	Quarterly issuance of Certificate of collection of tax at source (TCS) for the Quarter Ending 31st March 2018
31ST MAY 2018	GSTR 6	ISD - Return for input service distributor for the period July 2017 to April 2018
31ST MAY 2018	GSTR 1	Details of outward supplies of goods or services for the Month of April 2018
31ST MAY 2018	Income Tax Form No. 27Q	Quarterly Statement of deduction of tax at source (TDS) in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident for the quarter ending 31st March 2018
31ST MAY 2018	Income Tax Form 16 with Form 12BA and 16AA	Certificate of tax deducted at source (TDS) to employees in respect of salary paid during the previous financial year
31ST MAY 2018	Income Tax Form No. 26Q	Quarterly Statement of deduction of tax at source (TDS) in respect of all other deductees for the quarter ending 31st March 2018
31ST MAY 2018	Income Tax Form No. 24Q	Quarterly Statement of deduction of tax at source (TDS) on salary u/s 192 for the quarter ending 31st March 2018
31ST MAY 2018	Income Tax Form No. 16A	Quarterly issuance of certificate of tax deducted at source (other than salary) for the quarter ending 31st March 2018

GST: CGST

NOTIFICATIONS/CIRCULARS

PROCEDURE FOR RECOVERY OF ARREARS UNDER THE EXISTING LAW AND REVERSAL OF INADMISSIBLE INPUT TAX CREDIT

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 08/2018-GST dated 02nd May, 2018** hereby notifies regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit.

Legal provisions relating to the recovery of arrears of value added tax and input tax credit thereof or of entry tax and other taxes arising out of proceedings under the existing law

Legal provisions relating to the recovery of arrears of value added tax and input tax credit thereof or of entry tax and other taxes arising out of proceedings under the existing law

Recovery of arrears of wrongly availed input tax credit

In case any proceeding of appeal, revision, review or reference relating to recovery for input tax credit had been initiated, whether before, on or after the appointed day, under the existing law, any amount of such credit becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the GST Act

Recovery of input tax credit carried forward wrongly

Input tax credit of value added tax availed under the existing law may be carried forward in terms of transitional provisions as per section 140 of the GST Act subject to the conditions prescribed therein. Any credit which is not admissible in terms of section 140 of the GST Act shall not be allowed to be transitioned or carried forward and the same shall be recovered as an arrear of tax under the GST Act.

Recovery of arrears of value added tax or of entry tax and other taxes leviable under the existing law

- Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the GST Act
- If due to any proceedings of appeal, review or reference relating to output tax liability initiated, whether before, on or after the appointed day, under the existing law, any amount of output tax becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the GST Act

Recovery of arrears due to revision of return under the existing law

Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of input tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the GST Act

For further information kindly refer the above mentioned circular.

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

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 01/2018-GST dated 05th May, 2018** hereby notifies regarding extension of date for submitting the statement in FORM GST TRAN-2.

It is further stated that on the recommendations of the Council, 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 GST Rules, 2017 has been extended till the 30th June, 2018.

GST: IGST

NOTIFICATION/CIRCULAR

INCIDENCE OF GST ON PROVIDING CATERING SERVICES IN TRAIN

__OUR COMMENTS__: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 02/2018-GST dated 05th May, 2018** hereby notifies regarding incidence of GST on providing catering services in train.

It is further stated that 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.

On the other hand the passenger is not aware as to 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.

For further information kindly refer the above mentioned circular.

FURNISHING OF BOND / LETTER OF UNDERTAKING FOR EXPORTS

__OUR COMMENTS__: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 09/2018-GST dated 09th May, 2018** hereby notifies regarding clarification on issues related to furnishing of Bond / Letter of Undertaking for Exports.

It is further stated that with the partial modification of Circular No. 8/2017-GST dated 17th October, 2017, notified as the following:

- __Form for LUT__: The registered person (exporters) shall fill and submit FORM GST RFD-11on 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.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

GENERATION OF E-WAY BILL, IN RESPECT OF MOVEMENT OF THE GOODS

OUR COMMENTS: The Commercial Taxes Department, Government of Rajasthan vide **Notification No. F. 17(131) ACCT/GST/2017 dated 16th May, 2018** hereby makes amendment in the **Notification No. F.17(131)ACCT/GST/2017/3199 dated 26th March 2018** regarding the generation of e-way bill, in respect of movement of the goods shall come into force from 20th May 2018.

For further information kindly refer the above mentioned notification.

EXTENSION OF DUE DATE OF FILING OF GSTR-3B FOR THE MONTH OF APRIL, 2018

OUR COMMENTS: The Commercial Taxes Department, Government of West Bengal vide **Notification No. 09/2018–C.T./GST dated 18th May, 2018** hereby makes amendment in the **Notification No. 04/2018–C.T./GST dated the 23rd March 2018** regarding the extension of due date of filing of GSTR-3B for the month of April, 2018 ie, 22nd May 2018 instead of 20th May 2018.

The Commercial Taxes Department, Government of Maharashtra vide **Notification No. 23/2018 –State Tax dated 19th May, 2018** hereby makes amendment in the **Notification No. 16/2018-State Taxdated the 27th March 2018** regarding the extension of due date of filing of GSTR-3B for the month of April, 2018 ie, 22nd May 2018 instead of 20th May 2018.

For further information kindly refer the above mentioned notification.

INTRA-STATE E-WAY BILL

OUR COMMENTS: The Commercial Taxes Department, Government of West Bengal vide **Notification No. CCT/26-2/2018-19/34 dated 18th May, 2018** hereby notifies that no E-Way Bill is required to be generated for intra-State movement of all goods within whole of the territory of the State, except for intra-State movement within whole of the territory of the State of following goods of consignment value exceeding fifty thousand rupees:

- Iron and Steel.
- Ferrous and Non-ferrous Metal and Scrap thereof.
- All Types of Wall and Flooring Tiles.
- Processed Tobacco and Products thereof.
- Cigarette, Gutkha and Pan Masala.
- All types of Plywood, Block Board, Decorative and Laminated Sheets.
- Coal Including Coke in all its forms.
- Timber and Timber Products.
- Cement and all types of Cement Products.
- Marble and Granite.
- Kota Stones.
- Naphtha.
- FMCG.
- Namkins & Sweetmeats.
- I.T. Products.
- Electronic Goods.
- Pipes & Fittings of all kinds.
- Plumbing & Sanitary Items.
- Cashew Nuts.
- Electrical Goods.
- Readymade Garments.
- Furniture of all kinds.

However, when the person-in-charge of the conveyance is exempted from carrying E-Way Bill, he will be required to carry the documents such as tax invoice, delivery challan, bill of supply or bill of entry, as the case may be.

All the provisions and the procedures laid down in rules 138-Information to be furnished prior to the commencement of movement of goods and generation of e-way bill, 138A-Documents and devices to be carried by person-in-charge of a conveyance, 138B-Verification of documents and conveyance, 138C-Inspection and verification of goods and 138D-Facility for uploading information regarding detention of vehicle shall mutatis mutandis apply to the above listed goods for the intra-State movement in the State.

This notification shall come into force from the 1st day of June, 2018.

ANALYSIS

PROCEDURE FOR CLAIMING DUTY DRAWBACK ON SUPPLY OF GOODS BY A DTA UNIT TO AN SEZ UNIT

Rule 30 of Special Economic Zones Rules, 2006 specifies the procedure to be followed for procurement of goods by an SEZ unit or Developer from a DTA unit. This procedure is to be mandatorily followed to get export benefits.

The relevant point for our consideration under the said rule are as follows:

- The goods procured by a Unit or Developer under claim of export entitlements shall be allowed admission into the Special Economic Zone on the basis a Bill of Export filed by the supplier or on his behalf by the Unit or Developer and which is assessed by the Authorised Officer before arrival of the goods. So Bill of Export has to be filed and assessed by the Customs Officer before goods reaches SEZ Unit.
- Copy of Bill of Export with an endorsement by the authorized officer that goods have been admitted in full into the SEZ shall be filed with jurisdictional GST officer of Supplier within forty-five days.
- On arrival of the goods procured from the Domestic Tariff Area at the Special Economic Zone gate, the Authorized Officer shall examine the goods in respect of description, quantity, marks and other relevant particulars given in the invoice, Bill of Export of packing list and also as per the examination norms laid down in respect of export goods in cases where the goods are being procured under claim of an export entitlement.
- A copy of the Bill of Export with an endorsement of the Authorised Officer that the goods have been admitted in full in the Special Economic Zone, shall be treated as proof of export.

Circular No. 24/2003-Cus., dated 1-4-2003 is the first Circular issued by the Customs department treating the supply of goods by DTA Unit to SEZ Unit is export transaction and eligible for duty drawback. The later developments are as follows.

Board's Circular No.6/2005-Cus, dated 3.2.2005 specifies that with operationalization of the provisions of Chapter X-A of the Customs Act, 1962 w.e.f. 11.5.2004, drawback is to be granted for the supplies made from the DTA to the SEZ.

Circular No. 43/2007 - Cuss dated 5th December, 2007 specifies that in cases where the unit or developer issues a disclaimer to the DTA supplier, the Commissionerate of Central Excise /Customs & Central Excise having jurisdiction over the DTA unit would sanction the drawback.

The said Circular also specifies that that the disclaimer certificate issued by the SEZ unit or the Developer to the DTA supplier is supported by a certificate from the Specified Officer in the SEZ to the effect that drawback has not been claimed/availed of on the goods by the SEZ unit or the Developer, as the case may be.

With the implementation of GST, Circular No. 24/2017 - Customs dated 30th June 2017 issued wherein it specified that the Board has decided to re-organize the Customs functions hitherto handled by Central Excise formations. In this context, it has been decided that in respect of supplies made by DTA unit to SEZ Unit or developer and where the SEZ Unit or developer issues a disclaimer to the DTA supplier and drawback is claimed by the DTA supplier, the drawback shall be processed and paid by the office of Principal Commissioner or Commissioner of Customs/ Customs (Preventive) in whose jurisdiction the DTA Unit falls. In terms of the above Circular the application for the drawback shall be filed with the Principle Commissioner of Customs.

Further, the fixation of Brand rate in case of supplies from DTA to SEZ Unit or developer, if required, shall also be done by the office of said Principal Commissioner/ Commissioner. This shall apply to all fresh applications/ claims filed from 1.7.2017 onwards. Except the said change, all the procedural specified in the earlier Circular would remain same. Normally Drawback rate for particular product is uniform across the country i.e. 'All Industry Rate' otherwise we can go for fixation of Brand rate.

NOTIFICATIONS/CIRCULARS

IMPOSITION OF DEFINITIVE ANTI-DUMPING DUTY ON IMPORTS OF 'SATURATED FATTY ALCOHOLS ORIGINATING IN, OR EXPORTED FROM INDONESIA, MALAYSIA AND THAILAND

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 28/2018-Customs (ADD) dated 25th May, 2018** hereby notifies regarding imposition of definitive anti-dumping duty on imports of 'Saturated Fatty Alcohols originating in, or exported from Indonesia, Malaysia and Thailand.

It is further stated that in the matter of import of 'Saturated Fatty Alcohols' falling under the First Schedule to the originating in, or exported from Indonesia, Malaysia and Thailand and imported into India, the designated authority vide its final findings, published in the Gazette of India, Extraordinary, Part I, Section 1, vide notification No. F. No.14/51/2016-DGAD, dated the 23rd April, 2018, has come to conclusion that-

- the product under consideration is exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product;
- some of the imports were also causing material injury to the domestic industry,

For further information kindly refer the above mentioned notification.

CUSTOMS AUDIT REGULATIONS, 2018

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 45/2018-Customs (N.T.) dated 24th May, 2018** regarding Customs Audit Regulations, 2018.

The auditee shall preserve and on request by the proper officer make available in a timely manner, for the purposes of audit, true and correct information, records including electronic records, documents or accounts maintained in compliance of the provisions of the Act, rule or regulations, made there under or any other law for the time being in force, maintained for a minimum period of five years in relation to imported goods or export goods or dutiable goods.

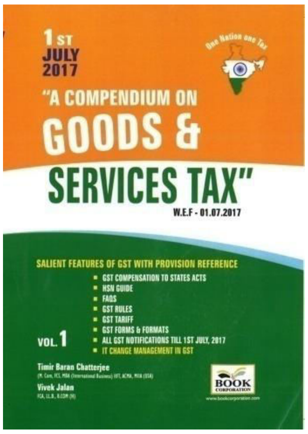
The selection of auditee or the selection of import declarations or export declarations, as the case may be, for the purposes of audit shall primarily be based on risk evaluation through appropriate selectivity criteria.

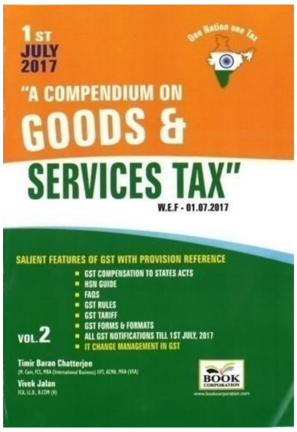
Manner of conducting audit

- The proper officer may conduct audit either in his office or in certain cases at the premises of an auditee.
- The proper officer may, where considered necessary, request the auditee to furnish documents, information or record including electronic record, as may be relevant to audit.
- The proper officer shall give not less than fifteen days advance notice to the auditee to conduct audit at the premises of the auditee.
- The proper officer may, where considered necessary, inspect the imported goods or export goods or dutiable goods at the premises of the auditee or request the auditee to produce sample, if available, with him.
- The proper officer shall inform the auditee of the objections, if any, before preparing the audit report to provide him an opportunity to offer clarifications with supporting documents.
- Where the auditee is in agreement with the audit findings, he may make voluntary payments of duty, interest or other sums, due, if any, in part or in full and the proper officer shall record the same in the audit report.
- Where the proper office has asked the auditee to furnish information, document, record or sample for the purposes of audit, it shall be mandatory for the proper officer to inform outcome of such audit to the auditee.
- The proper officer shall complete audit in cases where it is conducted at the premises of the auditee within thirty days from the date of starting of the audit:

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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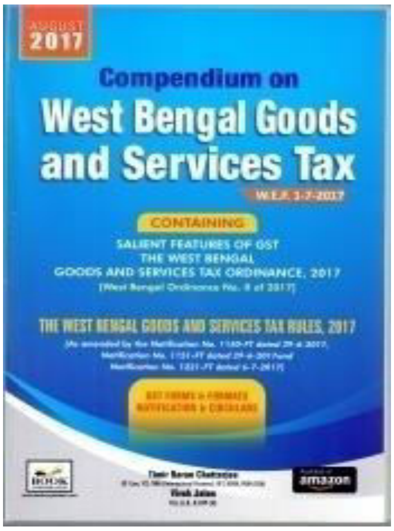
AVAILABLE IN STANDS

A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX

(Including ALL Notifications till date)



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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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