TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

TAX CONNECT

Kolkata : 1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
Delhi : B 42 Retreat Apartments, 20 IP Extension, Delhi 110 092
Gujarat : Quarter no. 3/174, Gujarat Refinery Township, Jawaharnagar, Vadodara-391320

Contact : +919331042424; +919831594980; +919830791914; +913322625203
Website : www.taxconnect.co.in
Email : tb.chatterjee@taxconnect.co.in;vivek.jalan@taxconnect.co.in; anindita.chatterjee@taxconnect.co.in

EDITORIAL

Friends,

In respect of the liquor companies, they have now come out of demonetization, highway sales ban and GST hangover can be said to be in high spirits. Infact 2018 so far has seen revival of demand of Indian Made Foreign Liquor (IMFL) by 2-3 percent, which was in negative for last two years. The slow down during 2016-2018 was mainly due to adverse effect of demonetization in November, 2016 followed by highway sale ban by Supreme Court in March, 2017 and then GST w.e.f. 1st July, 2017. The impact of all these one after the other reasons have largely stabilized and business can be said to be near normal now.

In such a scenario, to include a alcoholic beverages and alcohol into GST ambit is still a big question mark. The GST Council, the supreme body to take decisions on GST under the Constitution, is expected to take first steps in this direction but that will happen only when all the states are on board. Though there is resistance from some states, atleast Extra Neutral Alcohol (ENA) which is a key raw material or ingredient in producing alcoholic beverages may be first one to be introduced in GST club. ENA is a derivative of molasses and 80 per cent of it goes into manufacturing liquor. The rest is used by the pharmaceutical industry to manufacture cough syrups and the cosmetics industry to make perfumes.

It may be noted that industrial alcohol is already under the GST net. If this happens, alco-beverages sector will enter another complex situation, viz, ENA being subjected to GST whereas output, i.e., alco-beverages being out of GST net, leading to enhanced cost of production without any set off benefit of input taxes in the form of GST.

It may be technically correct to levy GST on ENA as it is not a potable liquor, yet it will bring in more distortions but of course, more revenue too to the exchequer. However, the VAT paid on the purchase of ENA can be used as a set-off on the VAT payable on sale of potable alcohol. But, if ENA is subject to the GST, input tax credit will no longer be available. While ENA is a major input for alco-beverage sector, it is also used in cosmetic, pharmaceutical and perfume formulations. There it would be allowed a set off and will therefore, be a welcome change.

GST or no GST, be it on raw material and inputs or the output supply, alco-beverage sector is facing challenge on costing front which accrues because of GST. The only possible solution lies in two fold strategy –

- First option is to remove GST on all major inputs and two, bring both inputs and output under GST ambit
- second option may work but if all the states agree to it. There is a big 'if' to be demolished. Let's see what is in store as this has political ramifications too.

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

Timir Baran Chatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan
FCA, LL.B, B. Com (H)

AninditaChatterjee
CS, BA L.LB(BANGALORE)

SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FOR THE MONTH OF JUNE 2018	Description
07TH JUNE 2018	Income Tax Form: Challan Form ITNS 281	Monthly payment of TDS on all types of payments (Except in the case where amounted is credited in the Month of 31st March)
10th June 2018	GSTR 1	Details of outward supplies of goods or services for the Month of May 2018
15th June 2018	Income Tax	EPF/ESI payment for the month of May 2018
15th June 2018	Income Tax Form: ITNS - 280	1st Installment of Advance Tax for A.Y 2019-2020
20th June 2018	GSTR 3B	Details of Outward Supplies and inward supplies and payment of Tax - Monthly Return for the month of May 2018
25th June 2018	Income Tax	Provident Fund return filing for the month of May 2018

NOTIFICATIONS/CIRCULARS

CENTRAL GOODS AND SERVICES TAX (SIXTH AMENDMENT) RULES, 2018

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. 28/2018 – Central Tax dated 19th June, 2018** hereby notifies regarding amendments made in the Central Goods and Services Tax 2018.

It is further notified that amendments are made in Rule 58, 138C, 142 of Central Goods and Services Tax 2018 & FORM GSTR ENR-01.

It is further stated that :-

- in rule 58, after sub-rule (1), the following sub-rule shall be inserted, namely:-

  "(1A) For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter. Further it is Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.";

- in rule 138C, after sub-rule (1), the following proviso shall be inserted, namely:-

  "Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days. Further it is stated that the period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.";

- in rule 142, in sub-rule (5), after the words and figures "of section 76", the words and figures "or section 129 or section 130" shall be inserted;

- after FORM GST ENR-01, the Application for obtaining unique common enrolment number FORM shall be inserted, with the following information :-

  - Legal Name
  - PAN
  - Details of registrations having the same PAN (GSTIN, Trade Name,State/UT)
  - Verification (I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom)

For further information kindly refer the above mentioned notification.

GST: IGST

NOTIFICATION/CIRCULAR

COMPOSITE SUPPLY VIS-À-VIS MIXED SUPPLY

Composite supply

Section 2(30) of Central Goods and Services Tax Act, 2017 defines the expression 'composite supply' as a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

One illustration is given in the Act to the definition of composite supply. Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

Mixed supply

Section 2(74) defines the expression 'mixed supply' as two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

One illustration is given in the Act to the definition of mixed supply. A supply or package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items re supplied separately.

Why the two supplies are considered as important

GST council has defined specific rates for goods and services. Sometimes supply of a good and service may be connected or may be done together even though not connect. Say for example, an AC is supplied and AC installation services are also supplied along with it.

The GST Act defines how such supply must be rated. Therefore, the concept of composite supply and mixed supply becomes important. It helps to determine the correct GST rate and provides uniform tax treatment under GST for such supplies.

Tax rate

The rates for both supplies are to be determined as follows-

- In respect of composite supply the principal item is to be taken for the purpose of tax. The tax rate applicable in respect of composite supply the tax rate of principal item is to be taken;
- In respect of mixed supply the item with highest rate is to taken for the purpose of tax.The tax rate applicable in respect of mixed supply is the highest rate of all the items is to be taken.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

WAIVER OF LATE FEE FOR FAILURE TO FURNISH RETURN IN FORM GSTR-3B

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.Ms.No.290 dated 05th June, 2018** hereby notifies regarding waiving of the late fee payable under Section 47 of the SGST Act for failure to furnish the return in FORM GSTR-3B by the due date for each of the months from October, 2017 to April, 2018, for the class of registered persons whose declarations in FORM GST TRAN-1 was submitted but not filed on the common portal on or before the 27th day of December, 2017.

It is further stated that such registered persons have filed the declaration in FORM GST TRAN-1 on or before the 10th day of May, 2018 and the return in FORM GSTR-3B for each of such months, on or before the 31st day of May, 2018.

EXTENSION OF THRESHOLD LIMIT FOR GENERATION OF E-WAYBILL IN CASE OF INTRA-STATE MOVEMENT

OUR COMMENTS: The Commercial Taxes Department, Government of West Bengal vide **Notification No. 13/2018–C.T./GST dated 06th June, 2018** hereby notifies regarding the fact that no e-waybill shall be required to be generated where the movement of goods commences and terminates within the State of West Bengal (intra-State) till 31st day of May, 2018, and that the provisions of rule 138 related to furnishing of information prior to commencement of intra-State movement of goods and generation of e-waybill for such movement of goods will apply on and from the 3rd day of June, 2018.

Moreover in exercise of the powers conferred by clause (d) of rule 138(14) of the West Bengal Goods and Services Tax Rules, 2017, and after consultation with the Principal Chief Commissioner of Central Tax, Kolkata Zone, it is hereby notified that the e-waybill in respect of movement of goods originating and terminating within the State of West Bengal (intra-State movement but without passing through any other State) shall be required where the consignment value exceeds ₹ 1,00,000/- (rupees one lakh only).

This Notification shall come into force with effect from the 6th day of June, 2018.

REVERSE CHARGE ON CERTAIN SPECIFIED SUPPLIES OF GOODS

OUR COMMENTS: The Commercial Taxes Department, Government of Andhra Pradesh vide **Notification No. G.O.Ms. NO.292 dated 06th June, 2018** hereby makes amendment in the **Notification G.O.Ms No. 255, Revenue (CT-II) Deptt., dated 29th June, 2017** regarding reverse charge on certain specified supplies of goods.

The Commercial Taxes Department, Government of Madhya Pradesh vide **Notification No. F.A-3-37-2017-1-V-(51), dated 07th June, 2018** hereby makes amendment in the **Notification No. F A-3-47-2017-1-V (65) dated 30th June, 2017** regarding reverse charge on certain specified supplies of goods.

The Commercial Taxes Department, Government of West Bengal vide **Notification No. 11/2018-State Tax (Rate) dated 12th June, 2018** hereby makes amendment in the **Notification No. 1128-F.T dated 28th June, 2017** regarding reverse charge on certain specified supplies of goods.

It is further notified that in case of priority sector lending certificate the supplier of goods and recipient of supply shall be any registered person .

For further information kindly refer the above mentioned notification.

INCOME TAX

ANALYSIS

POWER FINANCE CORPORATION LIMITED 54EC CAPITAL GAINS BOND

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 27/2018 dated 18th June, 2018** hereby notifies regarding the "Power Finance Corporation Limited 54EC Capital Gains Bond" issued by Power Finance Corporation Limited for the purpose of the said clause.

It is further stated that the benefit under the said provision shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs Power Finance Corporation Limited by registered post within a period of sixty days of such transfer.

For further information kindly refer the above mentioned notification.

INDIAN RAILWAY FINANCE CORPORATION LIMITED 54EC CAPITAL GAINS BOND

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Notification No. 28/2018 dated 18th June, 2018** hereby notifies regarding the "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond" issued by Indian Railway Finance Corporation Limited for the purpose of the said clause.

It is further stated that the benefit under the said provision shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs Indian Railway Finance Corporation Limited by registered post within a period of sixty days of such transfer.

For further information kindly refer the above mentioned notification.

ADDITION U/S 68 BY ALLEGING LTCG AS BOGUS IS NOT JUSTIFIED, THE LEGAL POSITION IS WELL SETTLED, AND STILL TAX AUTHORITIES ARE MAKING ADDITIONS

Addition u/s 68 is being made by tax authorities just due to suspicion, doubt and wrong application of probability in wrong manner. When an investor sells shares on platform of stock exchange and realises sale proceeds through his broker who in turn realises money from stock exchange, there should not be any doubt. Transactions are all supported by legal and prescribed documents like contract note, evidence of delivery, payment by cheque etc.

Lot of additions are made, huge demands are raised and assesse are put on harassment.

It is well settled that when a transaction is supported by statutory and customary documents, including third party documents, and payments are through proper banking channel, there should not by addition merely due to suspicion, doubt, surmise and conjecture. Unless there is definite evidence that one has paid cash against cheque received, an addition for money received by a holder in due course of cheque should not be doubted.

A cheque received and held as holder in due course and realised by banker of holder on presentation to the drawee bank need no more evidence about genuineness of amount realised on presentation of cheque held in due course and paid by drawee bank as payment in due course.

Issuing a cheque involves legal obligation to pay for same on presentation. In case a cheque is dishonoured, the drawer will be liable to pay for the same. In case of failure, the drawer can be prosecuted and sent to jail.

Therefore, tax authorities are wrongly applying probability theory and making additions u/s 68 even when there is valid consideration for the cheque received and realised.

CUSTOM

NOTIFICATIONS/CIRCULARS

KARANJA TERMINAL AS CUSTOMS AIRPORT

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 52 /2018- Customs (N.T.) dated 13th June, 2018** hereby makes amendments in the **Notification No. 62/1994 – Customs (N.T.), dated 21st November, 1994,** regarding customs airports.

It is further notified that the Central Government hereby appoints the Karanja Terminal to be Customs airports for the purpose of unloading of baggage and the loading of baggage.

For further information kindly refer the above mentioned notification.

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 53/2018-CUSTOMS (N.T.) dated 14th June, 2018** hereby makes amendments in the **Notification No. 36/2001-Customs (N.T.), dated 3rd August, 2001**, regarding Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver.

Table 1

Description of goods	Tariff value (US $Per Metric Tonne)
Crude Palm Oil	644
RBD Palm Oil	664
Others – Palm Oil	654
Crude Palmolein	670
RBD Palmolein	673
Others – Palmolein	672
Crude Soya bean Oil	752
Brass Scrap (all grades)	3850
Poppy seeds	2531

Table 2

Description of goods	Tariff value (US $)
Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	417 per 10 grams
Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	545 per kilogram

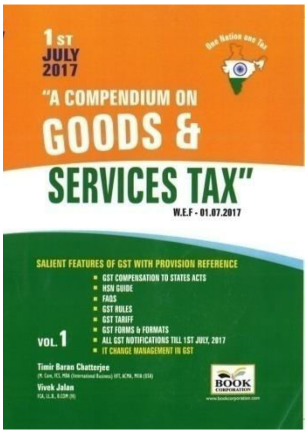
Table 3

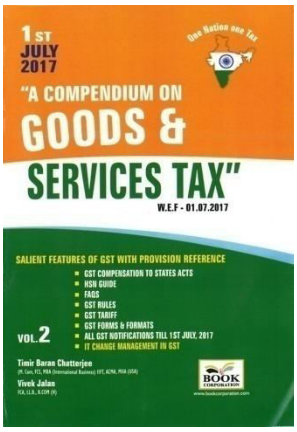
Description of goods	Tariff value (US $ Per Metric Tonne)
Areca nuts	3947

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.

Authors:
TimirBaranChatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

VivekJalan
FCA, LL.B., B.Com (Hons.)

Published by:
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
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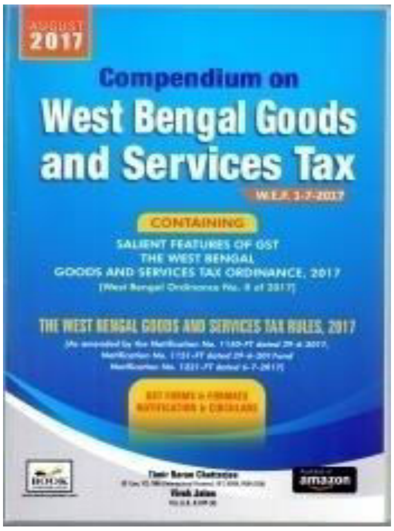
A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX
(Including ALL Notifications till date)



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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.

Authors:
TimirBaranChatterjee
M.Com, FCS, MBA (International Business)-IIFT, ACMA

VivekJalan
FCA, LL.B., B.Com (Hons.)

Published by:
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999, 22306669, 22205367
Cell : 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com