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INCOME TAX

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EDITORIAL

Friends,

The industry is facing various issues and difficulties with respect to refund claim.

- Earlier, **<u>for submission of claim,</u>** it was clarified **vide Circular No. 37/11/2018-GST dated 15th March, 2018** that the invoices shall be submitted for refund of IGST paid/ITC availed, as applicable. **This requirement was cumbersome and led to increased compliance cost.**

  Now, vide Circular No. 59/33/2018-GST dated 4th Sep 2018, it has been decided that the claim shall be accompanied by a **print-out of FORM GSTR-2A as an evidence of the supply for which the ITC has been availed** by the claimant. In situations where FORM GSTR-2A may not contain the details possibly because the supplier's FORM GSTR-1 was delayed or not filed, the hard copies of invoices may be called for. The details of the invoices shall be submitted in the format enclosed as Annexure-A.

- Further, **the refund application can be filed only after the electronic credit ledger has been debited with the amount as calculated by the common portal in the manner specified.** The specified procedure, however, is not presently available on the common portal. Till such time, the taxpayers are advised to follow the order as explained above for all refund applications filed after the date of issue of this Circular.

- **<u>In case of rejection of claim due to ineligibility,</u>** rejected amount is to be re-credited to the electronic credit ledger using FORM GST RFD-01B. For recovery, a demand notice u/s 73/74 shall be issued. The amount shall be added to the electronic liability register of the claimant through FORM GST DRC- 07. Alternatively, the claimant can voluntarily pay this amount and intimate in FORM GST DRC-03 as per section 73(5)/74(5) and rule 142(2).

  <u>In case of rejection of claim for other reasons,</u>, the rejected amount shall be re-credited to the electronic credit ledger only after receipt of an undertaking from the claimant that he shall not appeal against it.

- It is further clarified that the **<u>restriction under rule 96(10),</u>** as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.

- Further, neither the State nor the Central tax authorities shall withheld/refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except u/s 54(11) of the CGST Act.

EDITORIAL

Any adjustment of the refund amount against any outstanding demand can be done by the disbursing authority if not already done by the sanctioning authority.

- In case a deficiency memo in FORM GST RFD-03 has been issued, the refund claim will have to be filed afresh. Show-cause-notices are not required to be issued where deficiency memos have been issued.

Vide earlier notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28th June 2017, it has been specified that Canteen Stores Department (CSD), under the Ministry of Defence shall be entitled to claim refund of 50% of the applicable CGST/IGST/UTGST paid on all inward supplies of goods for subsequent supplies to the Unit Run Canteens or to the authorized customers of the CSD.

Now, to expedite processing of refund claims, Circular No. 60/34/2018-GST dated 4th Sep, 2018 has been issued which specifies manner and procedure for filing and processing of such refund claims.

In Customs, M/s Adani Kattupalli Sea port in Chennai, Tamilnadu has been specified as 20th sea port in India for 24x7 Customs clearance for specified imports (goods covered by 'facilitated' Bills of Entry) and specified exports (reefer containers with perishable/ temperature sensitive export goods sealed in the presence of Customs officials as per Circular No.13/2018-Cus dated 30.5.2018) and goods exported under free Shipping Bills.

Please refer to the bulletin further for details.

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

S.NO.	TOPICS	PAGE NO.
1]	**TAX CALENDAR**	**5**
2]	**GOODS & SERVICE TAX (GST)**	
a)	**GST: CGST/ IGST/SGST/UTGST**	**6**
Notification/Circular	EIGHTH AMENDMENT, 2018 TO THE CGST RULES, 2017	
Notification/Circular	TIME LIMIT FOR MAKING THE DECLARATION IN FORM GST ITC-04 EXTENDED TILL 30TH SEPTEMBER, 2018.	
Notification/Circular	WAIVER OF LATE FEE PAID FOR SPECIFIED CLASSES OF TAXPAYERS FOR FORM GSTR-3B, FORM GSTR-4 AND FORM GSTR-6	
Notification/Circular	TIME LIMIT FOR MAKING THE DECLARATION IN FORM GST ITC-01 FOR SPECIFIED CLASSES OF TAXPAYERS EXTENDED	
Notification/Circular	CLARIFICATION WITH RESPECT T0 E-WAY BILL IN CASE OF STORING OF GOODS IN GODOWN OF TRANSPORTER	
3]	**INCOME TAXES**	**8**
Notification/Circular	MIS C.B.C.I. SOCIETY FOR MEDICAL EDUCATION, BENGALURU NOTIFIED AS 'UNIVERSITY, COLLEGE OR OTHER INSTITUTION', ENGAGED IN RESEARCH ACTIVITIES U/S 35(1)(II) & 35(1)(III)	
Notification/Circular	“THE PRESS TRUST OF INDIA LIMITED, NEW DELHI” SPECIFIED AS A NEWS AGENCY IN INDIA SOLELY FOR COLLECTION AND DISTRIBUTION OF NEWS FOR 3 ASSESSMENT YEARS 2019-2020 TO 2021-2022 FOR SECTION 10(22B)	
Notification/Circular	INCOME-TAX (9TH AMENDMENT), RULES, 2018	
4]	**CUSTOMS**	**9**
Notification/Circular	REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA	
Notification/Circular	24X7 CLEARANCE FOR SPECIFIED GOODS AT M/S ADANI KATTUPALLI SEA PORT IN CHENNAI	
5]	**IN STANDS - SECTION WISE COMMENTARY ON GST UPDATED TILL 10th AUGUST 2018 (Including ALL Amendments by 29th GST Council Meeting on 04th August 2018)**	**10**

TAX CALENDAR

Due date	COMPLIANCES FROM29th JULY, 2018 to 31st AUGUST, 2018	Description
11th September 2018	GSTR- 1	Details of outward supplies of goods or services for the Month of August 2018
14th September 2018	Form No. 16B	Due date for issue of TDS Certificate for tax deducted Under section 194-IA in the month of July, 2018
14th September 2018	Form No.16C	Due date for issue of TDS Certificate for tax deducted Under section 194-IB in the month of July, 2018
15th September 2018	Form 24G	Details of all type of deduction / collection viz. TDS-Salary / TDS-Non Salary / TDS-Non Salary Non Residents / TCS by an office of the Government where TDS for the month of August, 2018 has been paid without the production of a challan
15th September 2018	Income Tax Form: Challan Form ITNS 280	Second installment of advance tax for the assessment year 2019-20

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

EIGHTH AMENDMENT, 2018 TO THE CGST RULES, 2017

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of Notification No. 39/2018 – Central Tax **dated 4th Sep,** seeks to further amend the Central Goods and Services Tax Rules, 2017 which may be called the Central Goods and Services Tax (Eighth Amendment) Rules, 2018.

Please refer the notification for details.

TIME LIMIT FOR MAKING THE DECLARATION IN FORM GST ITC-04 EXTENDED TILL 30TH SEPTEMBER, 2018.

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **Notification No. 40 /2018 – Central Tax dated 4th Sep,** 2018 has extended the time limit for making declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July 2017 to June 2018 till the 30th September, 2018.

WAIVER OF LATE FEE PAID FOR SPECIFIED CLASSES OF TAXPAYERS FOR FORM GSTR-3B, FORM GSTR-4 AND FORM GSTR-6

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **Notification No. 41/2018 – Central Tax dated 4th Sep has** waived the late fee paid u/s 47 for the following classes of taxpayers:-

(i) the registered persons whose return in FORM GSTR-3B of the CGST Rules, 2017 for October, 2017, was submitted but not filed on the common portal, after generation of the application reference number;

(ii) the registered persons who have filed the return in FORM GSTR-4 of the CGST Rules, 2017 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal;

(iii) the Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 of the CGST Rules, 2017 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018.

TIME LIMIT FOR MAKING THE DECLARATION IN FORM GST ITC-01 FOR SPECIFIED CLASSES OF TAXPAYERS EXTENDED

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **Notification No. 42/2018 – Central Tax dated 4th Sep has** extended the time limit for making the declaration in FORM GST ITC-01 of the said rules, by registered persons who have filed the application in FORM GST-CMP-04 of the said rules between the 2 March, 2018 and the 31 March, 2018, for a period of 30 days from the date of publication of this notification in the Official Gazette.

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

CLARIFICATION WITH RESPECT TO E-WAY BILL IN CASE OF STORING OF GOODS IN GODOWN OF TRANSPORTER

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of Circular No. 61/35/2018-GST **dated 4th Sep,** has issued clarification with respect to E-way bill in case of storing of goods in godown of transporter.

Textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters in turn need to get themselves registered under GST and maintain detailed records. Hence, a request has been made to treat these godowns as transit godowns.

Due to these difficulties being faced by the transporters and the consignee/recipient taxpayer and to ensure uniformity in the procedure across the sectors and the country, the following has been clarified:

- As per **rule 138 of the CGST Rules,** e-way bill is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business. Therefore, the **goods in movement including when they are stored in the transporter's godown** (even if the godown is located in the recipient taxpayer's city/town) prior to delivery **shall always be accompanied by a valid e-way bill.**

- Further, **section 2(85) of the CGST Act** defines the "place of business" to include "a place from where the business is ordinarily carried out, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both".

- An additional place of business is the place of business from where taxpayer carries out business related activities within the State, in addition to the principal place of business.

- **Therefore, in the given case, the transporter's godown has to be declared as an additional place of business by the recipient taxpayer and mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice. The transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer' additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.**

- Whenever the goods are transported from the transporters' godown to any other premises of the recipient taxpayer then, the relevant provisions of the e-way bill rules shall apply i.e. a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

- The obligation of the transporter to maintain accounts and records as specified in section 35 of the CGST Act read with rule 58 of the CGST Rules shall continue as a ware-housekeeper.

- The recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 of the CGST Rules.

(The facility of declaring additional place of business by the recipient taxpayer does not put any additional compliance requirement on the transporters)

INCOME TAX

NOTIFICATIONS/CIRCULARS

MIS C.B.C.I. SOCIETY FOR MEDICAL EDUCATION, BENGALURU NOTIFIED AS 'UNIVERSITY, COLLEGE OR OTHER INSTITUTION', ENGAGED IN RESEARCH ACTIVITIES U/S 35(1)(II) & 35(1)(III)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 40/2018 dated 27.08.2018** has notified MIS C.B.C.I. Society For Medical Education, Bengaluru as 'University, College Or other Institution', engaged in research activities u/s 35(1)(ii) & 35(1)(iii) subject to specified conditions.

The approval shall be withdrawn if the organization:-

a) fails to maintain specified separate books of accounts
b) fails to furnish its audit report as specified
c) fails to furnish its statement of the donations received and sums applied for scientific /social science/statistical research referred to in the notification
d) ceases to carry on its research activities or its research activities are not found to be genuine; or
e) ceases to confirm to and comply with the provisions of clause (ii)/clause(iii) of section 35(1) read with rules 5C and 5E.

"THE PRESS TRUST OF INDIA LIMITED, NEW DELHI" SPECIFIED AS A NEWS AGENCY IN INDIA SOLELY FOR COLLECTION AND DISTRIBUTION OF NEWS FOR 3 ASSESSMENT YEARS 2019-2020 TO 2021-2022 FOR SECTION 10(22B)

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 41/2018 dated 30.08.2018** has specified "The Press Trust of India Limited, New Delhi" as a news agency set up in India solely for collection and distribution of news for three assessment years 2019-2020 to 2021-2022 for the purpose of section 10(22B) subject to the condition that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income to its members.

INCOME-TAX (9TH AMENDMENT), RULES, 2018

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 42/2018 dated 30.08.2018** has specified Income-tax (9th Amendment), Rules, 2018 which shall come into force from the 1st April, 2019 and shall apply in relation to assessment year 2019-20 and subsequent years.

The amendments are with respect to Rule 11U "Meaning of expressions used in determination of fair market value"

And a new Rule 11UAB '"Determination of fair market value for inventory" has been inserted.

Please refer the notification for details.

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CUSTOMS

NOTIFICATIONS/CIRCULARS

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 77/2018-Customs (N.T.) dated 06.09.2018 & in supersession of Notification No. 74/2018-Customs (N.T.) dated 16.08.2018** has **revised the exchange rate of foreign currencies** specified in col.(2) of each of **Schedule I** and **Schedule II** annexed hereto, into Indian currency or vice versa, w.e.f. **07.09.2018** to be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	52.75	50.45
2.	Bahrain Dinar	196.30	184.10
3.	Canadian Dollar	55.50	53.55
4.	Chinese Yuan	10.65	10.30
5.	Danish Kroner	11.40	11.00
6.	EURO	85.05	81.80
7.	Hong Kong Dollar	9.30	8.95
8.	Kuwait Dinar	244.55	229.10
9.	New Zealand Dollar	48.60	46.40
10.	Norwegian Kroner	8.70	8.40
11.	Pound Sterling	94.30	91..05
12.	Qatari Riyal	20.35	19.05
13.	South Arabian Riyal	19.75	18.50
14.	Singapore Dollar	53.05	51.15
15.	South African Rand	4.80	4.50
16.	Swedish Kroner	8.05	7.80
17.	Swiss Franc	75.35	72.45
18.	UAE Dirham	20.15	18.90
19.	US Dollar	72.55	70.85

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	65.60	63.20

24X7 CLEARANCE FOR SPECIFIED GOODS AT M/S ADANI KATTUPALLI SEA PORT IN CHENNAI

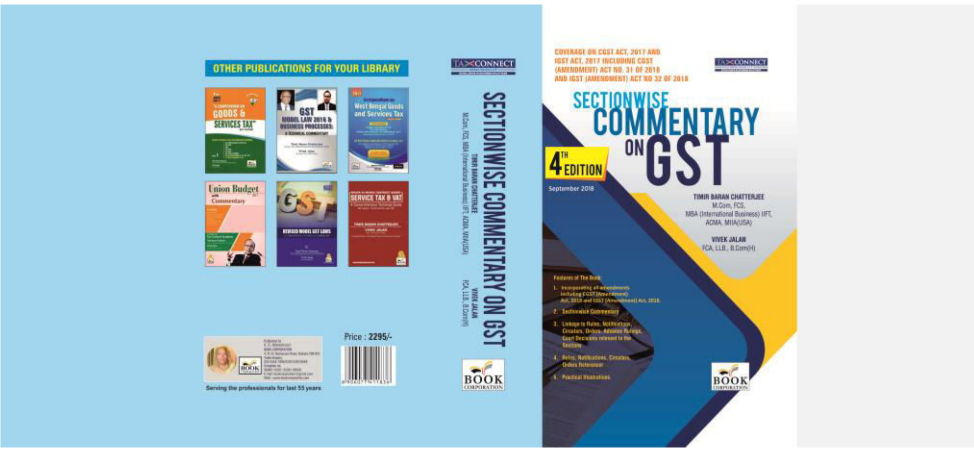
OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 31/2018-Customs dated 05.09.2018** has notified M/s Adani Kattupalli Sea port in Chennai, Tamilnadu for 24x7 Customs clearance for specified imports (goods covered by 'facilitated' Bills of Entry) and specified exports (reefer containers with perishable/ temperature sensitive export goods sealed in the presence of Customs officials as per Circular No.13/2018-Cus dated 30.5.2018) and goods exported under free Shipping Bills.

This shall be the 20th Sea port in India with 24x7 clearance facility.

IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL 10th AUGUST 2018

(Including ALL Amendments by 29th GST Council Meeting on 04th August 2018)



ABOUT THE BOOK: This book provides an insight into the following:

1. Incorporating all amendments
2. Section wise commentary
3. Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections
4. Rules, Notifications, Circulars, Orders Referencer
5. Practical Illustrations

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