TAXCONNECT
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TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

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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,

CBIC has issued notification 50/2018-CT dated 13.09.2018 and brought into force **section 51 of CGST Act w.e.f 1st October 2018 which prescribes for TDS liability under GST mechanism**

Now w.e.f 01.10.2018, TDS shall be deducted @ 2%from the payment of the supplier of goods or service or both (applicable where total value of supply exceeds Rs. 2,50,000/-) by following persons:

a. a department or establishment of the Central Government or State Government; or
b. local authority; or
c. Governmental agencies; or
d. an authority or a board or any other body,
   -set up by an Act of Parliament or a State Legislature; or
   -established by any Government,
   with fifty-one per cent. or more participation by way of equity or control, to carry out any function;
e. Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
f. public sector undertakings.

The amount of TDS deducted shall be credited in the cash ledger of supplier on monthly basis after payment and filing of their monthly TDS return by deductor in Form GSTR-7. This amount can be used for payment of the output tax liability. The deductee will be issued a TDS certificate in Form GSTR-7A after filing of return.

It is to be noted that TDS is not required to be deducted in case of inter-state transaction.

Also, provisions of section 52 with respect to tax collection at source (TCS) shall come into force w.e.f. 01.10.2018 (Notification No. 51/2018 – Central Tax dated 13th Sep).

Further, **Government has inserted FORM GSTR – 9C after the FORM GSTR9A to the Central Goods and Services Tax Rules, 2017** prescribing reconciliation of turnover declared in audited Annual Financial Statement with turnover declared in Annual Return (GSTR9), Reconciliation of tax paid, Reconciliation of Input Tax Credit (ITC), Auditor's recommendation on additional Liability due to non-reconciliation. Instructions have been issued for filing up the forms.

In Income Tax, Hon'ble Supreme Court vide its judgement dated 24.4.2018 in the case of Commissioner of Income Tax, Central-III Vs. M/s HCL Technologies Ltd. 1 **has finally resolved the controversy with respect to exclusion of freight, telecommunication charges and insurance expenses from both "export turnover" and "total turnover" while computing deduction u/s 10A.**

EDITORIAL

It is clarified vide Circular No. 4/2018 dated 14th August , 2018 that the said charges are to be excluded both from "export turnover" and "total turnover" for deduction u/s 10A to the extent they are attributable to the export of relevant articles or things or computer software outside India.

Similarly, expenses incurred in foreign exchange for providing the technical services outside India are to be excluded from both "export turnover" and "total turnover" while computing the deduction. **Thus, all charges/expenses specified in Explanation 2(iv) to section 10A shall be excluded from total turnover for computation of the deduction.**

In Customs, Instruction No. 12/2018 - Customs dated 13.08.2018 stands withdrawn which directed not to insist on payment of safeguard duty, for the time being on solar cells whether or not assembled in modules or panels would, in respect of said safeguard duty and be assessed provisionally on furnishing of simple letter of undertaking/bond by the concerned person.

This was in compliance to the interim directions issued by the Hon'ble High Court of Orissa in Writ Petition (Civil) No. 12817 of 2018.

The **Hon'ble Supreme Court** has stayed the above interim order and the instruction has been withdrawn. **Accordingly, all the provisional assessment done in terms of said instruction shall be finalised and safeguard duty shall be assessed and collected in accordance with the notification No. 1/2018-Customs (SG) dated 30th July, 2018.**

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

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

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

Anindita Chatterjee
CS, BA L.LB(BANGALORE)

SYNOPSIS

TAX CALENDAR

Due date	COMPLIANCES FROM 16th SEPTEMBER, 2018 to 22nd SEPTEMBER, 2018	Description
20th September 2018	GSTR- 3B	Details of Outward Supplies and inward supplies and payment of Tax - Monthly Return for the month of August 2018
20th September 2018	GSTR- 5	Details of Outward Supplies and Inward supplies and payment of Tax for Non Residents - Monthly Return for the month of August 2018
20th September 2018	GSTR- 5A	Details of service provided by non- resident OIDAR service provider – for the month of August 2018

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

COLLECTION OF TAX AT SOURCE (TCS) - SECTION 52 OF THE CGST ACT COMES INTO FORCE W.E.F 01.10.2018

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 51/2018 – Central Tax dated 13th Sep** has appointed 01.10.2018 as the date on which the provisions of section 52 of the said Act shall come into force.

TDS LIABILITY U/S 51 OF CGST ACT, 2017 COME INTO FORCE W.E.F. 01-10-2018.

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India **Notification No. 50 /2018 – Central Tax dated 13th Sep,** 2018 has appointed 01.10.2018 as the date on which section 51 of the CGST Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of section 51(1) and the persons specified below under clause (d) of section 51(1) :

(a) an authority or a board or any other body,

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with fifty-one per cent. or more participation by way of equity or control, to carry out any function;

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) public sector undertakings.

FORM GSTR-9C - FORMAT OF RECONCILIATION STATEMENT ISSUED

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 49/2018 – Central Tax dated 13th Sep** has inserted FORM GSTR – 9C after the FORM GSTR9A to the Central Goods and Services Tax Rules, 2017 containing the particular under the following sub-heads:

- Pt. I Basic Details
- Pt.II Reconciliation of turnover declared in audited Annual Financial Statement with turnover declared in Annual Return (GSTR9)
- Pt. III Reconciliation of tax paid
- Pt. IV Reconciliation of Input Tax Credit (ITC)
- Pt. V Auditor's recommendation on additional Liability due to non-reconciliation

Also, instructions have been issued for filig up the forms. Further certification has been prescribed as follows:

- Certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by the person who had conducted the audit:
- Certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by a person other than the person who had conducted the audit of the accounts.

Please refer the notification for details.

NINTH AMENDMENT, 2018) TO THE CGST RULES, 2017

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 48/2018 – Central Tax dated 10th Sep has** inserted sub-rule 1A to Rule 117 (Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day) which says that the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a further period not beyond 31st March, 2019, in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.

Further, registered persons filing the declaration in FORM GST TRAN-1 in accordance with sub-rule (1A), may submit the statement in FORM GST TRAN-2 by 30th April, 2019.

GST: CGST/IGST/SGST/UTGST

Please refer the notification for details.

DUE DATE FOR FILING OF FORM GSTR - 3B FOR NEWLY MIGRATED TAXPAYERS EXTENDED TO 31ST OF DECEMBER, 2018

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 47, 46 & 45/2018 – Central Tax dated 10th Sep** has made amendments in

Notification number 34/2018 – Central Tax dated the 10th August, 2018,

Notification number 35/2017 – Central Tax dated the 15th September, 2017,

Notification number 16/2018 – Central Tax dated the 23rd March, 2018

Notification number 21/2017 – Central Tax dated the 08th August, 2017

Notification number 56/2017 – Central Tax dated the 15th November, 2017

and provided that the return in FORM GSTR-3B shall be filed for the period from July, 2017 to November, 2018 by the taxpayers who have obtained GSTIN in terms of notification No. 31/2018 – Central Tax dated the 06th August, 2018, shall be furnished electronically through the common portal on or before the 31st day of December, 2018.

DUE DATE FOR FORM GSTR - 1 FOR TAXPAYERS HAVING AGGREGATE TURNOVER ABOVE RS 1.5 CRORES

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 44/2018 – Central Tax dated 10th Sep** has made amendments in

Notification No. 18/2017 – Central Tax dated 8th August, 2017

Notification No. 58/2017 – Central Tax dated 15th November, 2017,

Notification No. 18/2018 – Central Tax dated 28th March, 2018

Notification No. 32/2018 – Central Tax dated 10th August, 2018

Has extended the time limit for furnishing FORM GSTR-1, by registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding FY or the current FY, for July, 2017 to September, 2018 till the 31st day of October, 2018 and for October, 2018 to March, 2019 till the 11th of the succeeding month:

The time limit for FORM GSTR-1 for July, 2017 to November, 2018 for the taxpayers who have obtained GSTIN in terms of notification No. 31/2018 – Central Tax dated 6th August, 2018 shall be extended till the 31st December, 2018.

DUE DATE FOR FORM GSTR - 1 FOR TAXPAYERS HAVING AGGREGATE TURNOVER UPTO RS 1.5 CRORE

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of **Notification No. 43/2018 – Central Tax dated 10th Sep** has made amendments in

Notification No. 57/2017 – Central Tax dated 15th November, 2017

Notification No. 17/2018 – Central Tax dated 28th March, 2018,

Notification No. 33/2018 – Central Tax dated 10th August, 2018

And notified that the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding FY or the current FY, as the class of registered persons who shall follow the special procedure for furnishing the details of outward supply of goods or services or both may furnish FORM GSTR-1 as follows:

S.NO.	Quarter	DUE DATE
1	July - September, 2017	31st October, 2018
2	October - December, 2017	31st October, 2018
3	January - March, 2018	31st October, 2018
4	April – June, 2018	31st October, 2018
5	July - September, 2018	31st October, 2018
6	October - December, 2018	31st January, 2019
7	January - March, 2019	30th April, 2019

Please refer the notification for details.

INCOME TAX

NOTIFICATIONS/CIRCULARS

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES

OUR COMMENTS: Agreement between the Government of the Republic of India and the Government of Portuguese Republic for the avoidance (DTTA)of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed on the 24th June, 2017;

Now, The Department of Revenue, Ministry of Finance, Government of India vide Notification 43/2018 dated 11th September, 2018 hereby notifies that the provisions of said amending protocol shall be given effect to in the Union of India with effect from 8th August, 2018.

Please refer the notification for further details.

COMPUTATION OF ADMISSIBLE DEDUCTION U/S 10A OF THE INCOME TAX ACT, 1961

OUR COMMENTS: As per section 10A(4), the profits derived from export of articles or things or computer software shall be in the same proportion as the export turnover in respect of such things bears to the total turnover of the business.

As per clause (iv) to Explanation 2 to section 10A, "export turnover" means the consideration in respect of export by the undertaking of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India.

However, it was controversial whether freight, telecommunication charges and insurance expenses are to be excluded from both "export turnover" and "total turnover" while computing deduction u/s 10A.

Similarly, technical services outside India are to be excluded both from "export turnover" and "total turnover" while computing deduction u/s 10A was an issue

The controversy has been finally settled by the Hon'ble Supreme Court vide its judgment dated 24.4.2018 in the case of Commissioner of Income Tax, Central-III Vs. M/s HCL Technologies Ltd. 1.

It is clarified vide Circular No. 4/2018 dated 14th August , 2018 that freight, telecommunication charges and insurance expenses are to be excluded both from "export turnover" and "total turnover", while working out deduction admissible under section 10A of the Act to the extent they are attributable to the delivery of articles or things or computer software outside India.

Similarly, expenses incurred in foreign exchange for providing the technical services outside India are to be excluded from both "export turnover" and "total turnover" while computing deduction admissible under section 10A.

Thus, all charges/expenses specified in Explanation 2(iv) to section 10A of the Act, are liable to be excluded from total turnover also for the purpose of computation of deduction u/s 10A.

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CUSTOMS

NOTIFICATIONS/CIRCULARS

RE-IMPORT OF CERTAIN INDIGENOUSLY MANUFACTURED ELECTRONIC GOODS WITHOUT PAYMENT OF BASIC CUSTOMS DUTY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 60/2018-Customs dated 11.09.2018** has amended notification No. 158/95-Customs dated 14th November, 1995 and allowed re-import of certain indigenously manufactured electronic goods, for repair and reconditioning within 7 years from the date of exportation, without payment of basic customs duty subject to the condition that the goods are re--exported back after repair and reconditioning within 1 year from the date of re-importation.

SAFEGUARD DUTY ON SOLAR CELLS WHETHER OR NOT ASSEMBLED IN MODULES OR PANELS

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide Instruction No. 14/2018 - 13-9-2018 has directed that the Instruction No. 12/2018-Customs, dated 13th August, 2018 stands withdrawn with immediate effect.

Instruction No. 12/2018 - Customs dated 13.08.2018 directed not to insist on payment of safeguard duty, for the time being on solar cells whether or not assembled in modules or panels would, in respect of said safeguard duty, be assessed provisionally on furnishing of simple letter of undertaking/bond by the concerned person.

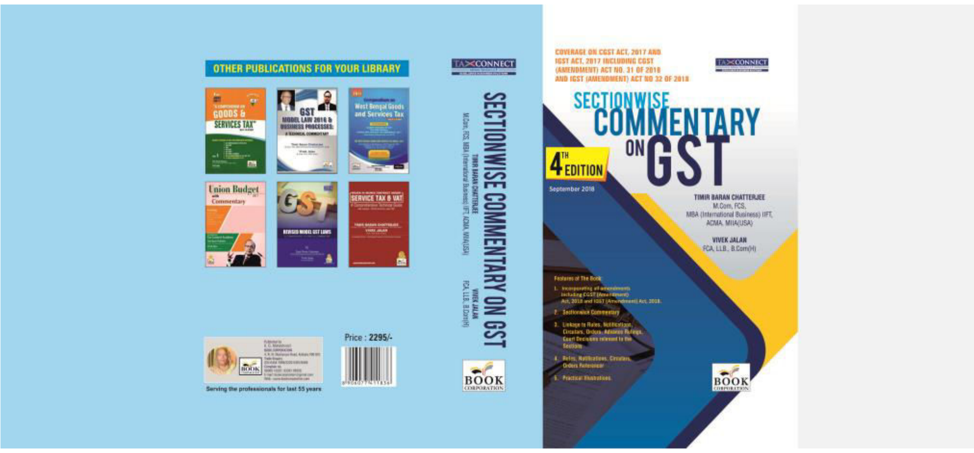
This was in compliance to the interim directions issued by the Hon'ble High Court of Orissa in Writ Petition (Civil) No. 12817 of 2018.

In the meantime, Hon'ble Supreme Court has stayed the interim order dated 23.07.2018 passed by the Hon'ble High Court of Orissa and further proceedings in the aforementioned writ petition.

Now, Instruction No. 12/2018-Customs, dated 13th August, 2018 stands withdrawn. Accordingly, all the provisional assessment done in terms of said instruction shall be finalised and safeguard duty shall be assessed and collected in accordance with the notification No. 1/2018-Customs (SG) dated 30th July, 2018.

IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



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

Authors:

Timir Baran Chatterjee

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

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

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

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