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EDITORIAL

Friends,

Central Government vide Notification No.50-Central Tax-Dated 13-09-2018 & Notification No.51-Central Tax-Dated 13-09-2018 has appointed 1st day of October 2018 as the date on which the provision of Sec 51 (TDS) & Sec 52 (TCS) shall come into force.

In the previous issue, we discussed TDS in brief. Now lets discuss the applicability of TCS in brief:

1. Who is required to Deduct TCS under GST?

As per Sec. 52(1) of CGST Act 2017 read with corresponding Sec. 52(1) of SGST Act 2017 every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 1%., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

As per Notification No. 52/2018 – Central Tax, Dated-20th September, 2018 every electronic commerce operator, not being an agent, shall collect an amount calculated at a rate of 0.5% of the net value of intra-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.

Corresponding Notifications is/will be issued by the SGST Department of all the states regarding the updated rate of TCS.

Hence, in case of Intra- state transaction TCS will be bifurcated in (0.5% CGST+ 0.5% SGST) and shall be deposited accordingly. While in case of Inter-state transaction, TCS of 1% will be deposited towards IGST.

This shall be done by the Operator while paying the supplier, the price of the product/services, less the tax, calculated at the rate of 1%. The said amount will be calculated on the net value of the taxable supplies supplied through the portal of the Operator.

As per Explanation to Sec. 52(1) of CGST Act 2017, "Net value of the taxable supplies" has to be ascertained in terms of a formula as provided under sub-section (1) of Section 52 of the Act.

Net Value of Taxable Supplies = [(Aggregate Value of Taxable Supplies of Goods + Services or both) – (Section 9(5) Services)]} – (Aggregate Value of Returned Taxable Supplies)].

2. Definition of Electronic Commerce and Electronic Commerce Operator.

Section 2(44) of the CGST Act 2017, defines 'Electronic Commerce' means the supply of goods or services or both, including digital products over digital or electronic network.

Section 2 (45) of the CGST Act 2017, defines "Electronic Commerce Operator' means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

3. Definition of Agent?

As per Sec. 2(5) of CGST Act 2017, "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

EDITORIAL

4. Deposit of TCS with the Government

As per Sec. 52(3) of CGST Act 2017, the amount of tax collected by the Operator is required to be deposited by the 10th of the following month, during which such collection is made (i.e. by10th Nov'18 for deductions made in Oct'18).

5. Monthly Statement/ Return

As per Sec. 52(4) of CGST Act 2017 read with Rule 67(1) of CGST Rules 2017, every operator who collects the amount of tax shall furnish a statement, electronically, containing all the details relating to:

a. Outward supplies of Goods and/or Services.
b. Returned of goods and services.
c. Amount collected during a month.

in Form GSTR-8 within 10 days after the end of such month.

6. Annual Statement

As per Sec.52(5) of CGST Act 2017 read with Rule 80(2) of CGST Rules 2017 Every electronic commerce operator who collects tax at source shall furnish an annual Statement, electronically, containing all the details relating to:
a. Outward supplies of Goods and Services.
b. Returned of goods and services.
c. Amount collected during a month.

in Form GSTR-9B by 31'st December following the end of such financial year.

7. Credit of tax collected

As per Sec. 52(7) of CGST Act 2017, the tax collected by the Operator shall be credited to the cash ledger of the supplier who has supplied the goods/services through the Operator. The supplier can claim credit of the tax collected and reflected in the return by the Operator in supplier's electronic cash ledger.

8. Registration

As per Sec. 24(x) of CGST Act 2017, it is mandatory for every e-Commerce Operator to get registered under GST.
Similarly, as per Sec. 24(ix) of CGST Act 2017, it is mandatory for every person who supplies goods/services through an Operator to get registered under GST subject to conditions specified. The threshold limit of Rs.20 lakhs (Rs.10 lakhs for special category states) is not applicable to them.

Please refer the upcoming bulletin for brief on applicability of TDS.

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 7th OCTOBER, 2018 to 13th OCTOBER, 2018	Description
7th October 2018	Income Tax Form: Challan Form ITNS 281	Due date for deposit of tax deducted/collected for the month of September, 2018. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
7th October 2018	Income Tax Form: Challan Form ITNS 281	Due date for deposit of TDS for the period July 2018 to September 2018 when Assessing Officer has permitted quarterly deposit of TDS under section 192,194A, 194D or 194H

GST: CGST/IGST/SGST/UTGST

NOTIFICATIONS/CIRCULARS

UN, SPECIFIED INTERNATIONAL ORGANIZATIONS, AND OTHERS HAVING BEING SPECIFIED UNDER SECTION 55 OF THE CGST ACT, 2017, ARE ENTITLED TO REFUND OF COMPENSATION CESS PAYABLE ON INTRA-STATE AND INTER-STATE SUPPLY OF GOODS OR SERVICES OR BOTH

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Circular No. 68/42/2018-GST dated 5th Oct 2018** has clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

Representations were received by the Board regarding the above entitlement on intra-State and inter-State supply of goods or services or both.

The issue has been examined.

Section 55 of the CGST Act provides that the Government may, on the recommendation of the council, specify UN agencies and organizations notified under the UNPI Act 1947, Consulates, Embassies of foreign countries and any other person to be entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as may be prescribed.

Notification No. 16/2017- Central Tax(Rate) dated 28.06.2017 has been issued specifying UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.

Section 11 of the Goods and Services Tax (Compensation Cess Act), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess.

Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.

Accordingly, notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 shall be applicable for the purposes of refund of Compensation Cess to UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein.

INCOME TAX

NOTIFICATIONS/CIRCULARS

TRANSACTIONS OF ACQUISITION OF EQUITY SHARE NOTIFIED FOR THE PURPOSE OF SPECIAL RATE OF TAX U/S 112A

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 60/2018 dated 01.10.2018** has notified the transactions of acquisition of equity share for the purpose of special rate of tax u/s 112A. It shall be effective from the 1st day of April, 2019 and shall apply in relation to the assessment year 2019-20 and onwards.

In order to specify the nature of acquisition for which section 112A(1)(iii)(a) of the Income-tax Act shall not apply, the following transactions of acquisition of equity share entered into:

(I) before the 1st day of October, 2004; or

(II) on or after the 1st day of October, 2004 which are not chargeable to securities transaction tax under Chapter VII of the Finance Act, 2004), other than :

(a) where acquisition of existing listed equity share in a company whose equity shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue:

It shall not apply to acquisition of listed equity shares in a company;-

(i) which has been approved by the Supreme Court, High Court, National Company Law Tribunal, SEBI or RBI in this behalf;

(ii) by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India;

(iii) by specified investment fund

(iv) through preferential issue to which the provisions of chapter VII of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply.

(b) where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange in India:

It shall not apply to the acquisition of listed equity shares in a company which has been made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 and is-

(i) through an issue of share by a company other than the issue referred to in clause (a);

(ii) by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business;

(iii) approved by the Supreme Court, High Courts, National Company Law Tribunal, SEBI or RBI in this behalf;

(iv) under employee stock option scheme or employee stock purchase scheme framed under the SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines,1999;

(v) by any non-resident in accordance with foreign direct investment guidelines of the Government of India;

(vi) in accordance with Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011;

(vii) from the Government;

(viii) by specified investment fund

(ix) by specified mode of transfers

(c) acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992

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. 85/2018-Customs (N.T.) dated 04.10.2018& in supersession of Notification No. 81/2018-Customs (N.T.) dated 20.09.2018**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. **05.10.2018** 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	53.70	51.40
2.	Bahrain Dinar	202.05	189.45
3.	Canadian Dollar	58.40	56.40
4.	Chinese Yuan	10.90	10.55
5.	Danish Kroner	11.55	11.15
6.	EURO	86.15	83.10
7.	Hong Kong Dollar	9.60	9.25
8.	Kuwait Dinar	250.80	235.00
9.	New Zealand Dollar	49.25	47.00
10.	Norwegian Kroner	9.10	8.80
11.	Pound Sterling	97.00	93.65
12.	Qatari Riyal	20.90	19.60
13.	South Arabian Riyal	20.30	19.05
14.	Singapore Dollar	54.35	52.55
15.	South African Rand	5.20	4.85
16.	Swedish Kroner	8.30	8.00
17.	Swiss Franc	75.75	72.90
18.	UAE Dirham	20.75	19.45
19.	US Dollar	74.60	72.90

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	65.70	63.35

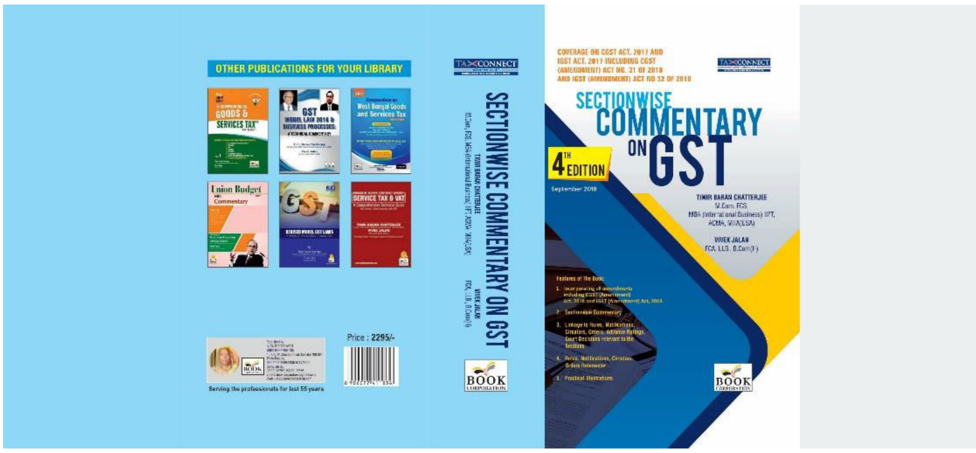
IMPORT DUTY ON PARTS/ COMPONENTS USED IN MANUFACTURING OF SPECIFIED TEXTILE MACHINERY REDUCED TO NIL

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 72/2018-Customs dated 28.09.2018**has amended Customs Exemption Notifications No. 50/2017-Customs dated 30.06.2017 and reduced the import duty on parts/ components used in manufacturing of specified textile machinery to Nil.

Please refer the notification for details.

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

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