TAX CONNECT

NINTH ISSUE AUGUST 2014

Friends,

At the outset, may we thank you all for the overwhelming response to the First Certificate Course on Indirect Taxes organized by The Bengal Chamber Of Commerce & Industry. Your response propels us to keep driving value for our stakeholders.

By now we would all be updated on the broad impact of the maiden Union budget by the new government. Given that it had been in office for just forty five days, it was not expected to present everything that needed to be done. However, it has presented a broad road map of its economic policy and outlined its plan for reviving the growth spirit of the Indian Economy. By this bulletin, it is our endeavor to present to you the detailed impact of the amendments made by the budget in the statutes.

Among all other changes, it is important to note that in Service Tax/ Central Excise, now, **a pre-deposit of 7.5% - 10% of the duty demanded or penalty imposed for filing appeal before the Commissioner (Appeal) or the Tribunal at the first stage or second stage has become mandatory.** This shall cause tremendous hardship given the rate at which demands are being confirmed in Service Tax. **Moreover, the rate of interest rate has also been steeped upto 30%.**

Further, the commercial taxes department has again extended the due date for filing **WB VAT/CST/ Entry Tax/ PT Return for Q1 2014-15 to 15th August 2014.**

There seems to be a purposeful drive in the WB commercial taxes department now towards e-governance. **An "Assessed Dues' Module" has been developed and given as a link in "Dealers' Profile" in the website for the purpose of filing information regarding payments made and pending appeals, if any, by the dealer.** This is a welcome move. However, given the revenue biased nature of the department, it is to be seen how much this e-governance initiative results in a business friendly approach.

Before signing off, may we reiterate that we shall be available 24x7 on our mail id or over a telecon.

DUE DATE	COMPLIANCE
05-Aug-14	Payment of Service Tax for the month of July, 2014. **(06-Jul-14: Online Payment)**
07-Aug-14	Payment of TDS/TCS
10-Aug -14	West Bengal Sales Tax TDS Payment
10-Aug -14	ER1, ER2, ER6 Return for July, 2014
15-Aug-14	Provident Fund e-Payment for July, 2014 **(Cheque to be cleared by 20-Aug-14)**
15-Aug-14	Issue of TDS/TCS Certificates for June Quarter for Govt. deductors **(Form 16A/27D)**
15-Aug-14	**Extended date for West Bengal VAT/CST/ Entry Tax/ Professional Tax Return for the period April-June, 2014**
21-Aug-14	West Bengal VAT/CST/ Entry Tax/ Professional Tax Payment for the month of July, 2014
21-Aug-14	Payment of ESI for the month of July, 2014
25-Aug-14	West Bengal Sales Tax TDS Certificate Issue
31-Aug-14	Return of Deposits by all Companies **(Form DPT-4)**
31-Aug-14	AIR by Banks, Credit Card Companies etc. for FY 2013-2014

Truly Yours

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SERVICE TAX

NOTIFICATIONS

AMENDMENT IN MEGA-EXEMPTION NOTIFICATION

The Ministry of Finance vide **Notification No. 06/2014-Service Tax dated 11th July, 2014 made further amendments in the Mega-Exemption Notification No. 25/2012-ST dated 20th June, 2012.** The amendments are mentioned below:

- **Review of general exemptions:**
  - Withdrawal of exemption extended to clinical research on human participants.
  - Withdrawal of exemption extended to air-conditioned contract carriages like buses.
- **Rationalisation of general exemptions:**
  - Exemption in respect of services provided to Government or local authority or governmental authority, will be limited to services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation. **[Entry 25(a)]**
  - The concept "Auxiliary Education Service" proposed to be omitted. Services which are exempt when received by the education institutions are:
    - transportation of students, faculty and staff;
    - catering service including any mid-day meals scheme sponsored by the Government;
    - security or cleaning or house-keeping services in such educational institutions; and
    - services relating to admission to such institution or conduct of examination.

    Exemption extended in respect of renting of immovable property service received by educational institutions, stands withdrawn. **[Entry 9]**
  - Exemption available to accommodation services provided by hotels, *dharamshalas* or *ashrams* when they provide rooms for less than `1,000 per day, is being re-worded to bring out the intent clearly. **[Entry 18]**
- **New Exemptions from Service Tax:**
  - Life micro-insurance schemes for the poor, approved by IRDA, where sum assured does not exceed `50,000. **[Entry 26A(c)]**
  - Exemption to services provided by way of transportation by rail/vessel/GTA of organic manure and cotton, ginned or baled. **[Entry 20(j) & (k) and 21(e) & (i)]**
  - Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (GTA) of cotton (ginned or baled). **[Entry 40]**
  - Services provided by common bio-medical waste treatment facility operators to clinical establishments. **[Entry 2B]**
  - Specialized financial services received by RBI from global financial institutions in the course of management of foreign exchange reserves, e.g., external asset management, custodial services, securities lending services, etc. **[Entry 41]**
  - Services provided by Indian tour operators to foreign tourists in relation to a tour wholly conducted outside India. **[Entry 42]**

AMENDMENT REGARDING EXEMPTION ON SERVICES PROVIDED TO SEZ AUTHORISED OPERATIONS

The Ministry of Finance vide **Notification No. 07/2014-Service Tax dated 11th July, 2014 made further amendments in the Notification No. 12/2013-ST dated 1st July, 2013 regarding exemption on services provided to SEZ authorized operations.** Following changes are being made to simply the procedure for availing benefit:

- Central Excise Officer would issue authorization in Form A-2, within 15 working days from the date of receipt of Form A-1 by the Central Excise Officer.
- Authorization will have validity from the date on which Form A-1 is verified by the Specified Officer of SEZ. However, if Form A-1 is furnished after a period of 15 days from the date of its verification by the Specified Officer, the authorization shall have validity from the date of furnishing of Form A-1 to the Central Excise Officer.
- SEZ Units or the Developer will, pending issuance of Form A-2, be entitled to avail upfront exemption on the basis of Form A-1. However, in such a case, the SEZ Unit/Developer would be required to furnish a copy of authorization issued

by the Central Excise Officer within 3 months from the date of receipt of specified services. If a copy of authorization is not provided within the said period of 3 months, the service provider shall pay service tax on the service so provided availing the exemption.

- As regards services covered under full reverse charge, it is being mentioned specifically in Form that there would be no requirement of furnishing service tax registration number of service provider.
- It is being provided that a service shall be treated as exclusively used for SEZ operations if the recipient of service is SEZ unit or developer, invoice is in the name of such unit/developer and the service is used exclusively for furtherance of authorized operations in SEZ.

AMENDMENT IN ABATEMENT NOTIFICATION

The Ministry of Finance vide **Notification No. 08/2014-Service Tax dated 11th July, 2014 made further amendments in the Abatement Notification No. 26/2012-ST dated 20th June, 2012.** The amendments are mentioned below:

- For availing abatement in case of GTA service, the condition for non- availment of credit is required to be satisfied by the service providers only. **[Sl. No. 7]**
- The taxable portion of service of transportation of passenger by air-conditioned contract carriages shall be 40% with the condition that CENVAT credit of inputs or capital goods or input services has not been taken. **[Insertion of Sl. No. 9A]**
- CENVAT credit of input service of **renting of a motor cab** is allowed if such services are received from a person engaged in the similar line of business i.e. a sub-contractor providing services of renting of motor cab to the main contractor w.e.f 1st October, 2014 in the following manner:
  - Full CENVAT credit of such input service received from a person who is paying service tax on forty percent of the value; or
  - Up to 40% CENVAT credit of such input service received from a person who is paying service tax on full value;
- Tour operator service providers, availing abatement, are allowed CENVAT credit on the input service of another tour operator, which are used for providing the taxable service w.e.f 1st October, 2014. **[Sl. No. 11]**
- Abatement in respect of transport of goods by vessel is increased from 40% to 50% w.e.f 1st October, 2014.

AMENDMENT IN SERVICE TAX RULES, 1994

The Ministry of Finance vide **Notification No. 09/2014-Service Tax dated 11th July, 2014 made further amendments in the Service Tax Rules, 1994 w.e.f. 11st July, 2014.** The amendments are mentioned below:

- Service provided by a Director to a body corporate to be brought under the reverse charge mechanism. **[Insertion of Rule 2(1)(d)(i)(AA)]**
- Services provided by Recovery Agents to Banks, Financial Institutions and NBFC to be brought under the reverse charge mechanism. **[Substitution of Rule 2(1)(d)(i)(EE)]**
- **W.e.f. 1st October, 2014, every assessee shall electronically pay the service tax payable by him, through internet banking.** Relaxation from e-payment may be allowed by the AC/DC on case to case basis. [**Substitution of Rule 6(2)]**

AMENDMENT IN REVERSE CHARGE NOTIFICATION

The Ministry of Finance vide **Notification No. 10/2014-Service Tax dated 11th July, 2014 made further amendments in the Notification No. 30/2012-ST dated 20th June, 2012.** The amendments are mentioned below:

- In relation to following services, service receiver to pay 100% service tax:
  - Services provided by a recovery agent to a banking company/financial institution/NBFC.
  - Services provided by a Director to a body corporate.
- W.e.f 1st October, 2014, in renting of motor vehicle, where the service provider does not take abatement, the portion of service tax payable by the service provider and service receiver will be 50% each.

AMENDMENT IN SERVICE TAX (DETERMINATION OF VALUE) RULES, 2006

The Ministry of Finance vide **Notification No. 11/2014-Service Tax dated 11th July, 2014 amended Clause (ii) of Rule 2A of the Service Tax (Determination of Value) Rules, 2006 by merging Category B & Category C of the works contract into a single category with service portion as 70% w.e.f. 1st October, 2014.**

CHANGE IN THE RATE OF SIMPLE INTEREST FOR THE DELAYED PAYMENT OF SERVICE TAX

The Ministry of Finance vide **Notification No. 12/2014-Service Tax dated 11th July, 2014** fixes the following rates of simple interest per annum for delayed payment of service tax w.e.f. 1st October, 2014:

Sl.No.	Period of delay	Rate of simple interest
1	Upto six months	18%
2	More than six months and upto one year	18% for first 6 months of delay and 24% for the delay beyond 6 months
3	More than one year	18% for first 6 months of delay; 24% for the delay beyond 6 months upto 1 yearand 30% for any delay beyond 1 year

AMENDMENT IN POINT OF TAXATION RULES, 2011

The Ministry of Finance vide **Notification No. 13/2014-Service Tax dated 11th July, 2014 made further amendments in the Point of Taxation Rules, 2011 w.e.f. 1st October, 2014.** The amendments are mentioned below:

- **Rule 7:** Where the payment is not made within a period of 3 months of the date of invoice, the point of taxation shall be the date immediately following the said period of 3 months.
- **Rule 9:** If the invoice in respect of a service, for which point of taxation is determinable under rule 7 has been issued before the 1st October, 2014 but payment has not been made as on the said day, the point of taxation shall:
  - if payment is made within a period of six months of the date of invoice, be the date on which payment is made;
  - if payment is not made within a period of six months of the date of invoice, be determined as if rule 7 and this rule do not exist.

AMENDMENT IN PLACE OF PROVISIONS OF SERVICES RULEE, 2012

The Ministry of Finance vide **Notification No. 14/2014-Service Tax dated 11th July, 2014 made further amendments in the Place of Provision of Services Rules, 2012 w.e.f. 1st October, 2014.** The amendments are mentioned below:

- Provision for prescribing conditions for determination of place of provision of repair service carried out on temporarily imported goods, to be omitted. **[Substitution of Second Proviso of Rule 4(a)]**
- Intermediary of goods to be given the same treatment as is given to intermediary of services. **[Substitution of Rule 2(f)]**
- Vessels (excluding yachts) and aircraft to be excluded from **Rule 9(d).**

RESIDENT PRIVATE LIMITED COMPANY CAN APPLY FOR ADVANCE RULING

The Ministry of Finance vide **Notification No. 15/2014-Service Tax dated 11th July, 2014 specifies "Resident private limited company" as class of persons under Section 96A(b)(iii) of the Finance Act, 1994 who can make application for advance ruling.**
For the purposes of this notification:

- **"private limited company"** shall have the same meaning as is assigned to "private company" in Section 2(68) of the Companies Act, 2013 (18 of 2013);
- **"resident"** shall have the same meaning as is assigned to it in Section 2(42) read with Section 6(3) of the Income-tax Act, 1961 (43 of 1961).

CENTRAL EXCISE

EXEMPTION OF EXCISE DUTY IN EXCESS OF THE AMOUNT CALCULATED AT THE RATE OF 1% AD VALOREM ON SPECIFIED EXCISABLE GOODS

The Ministry of Finance vide **Notification No. 08/2014-Central Excise dated 11th July, 2014 made further amendments in the Notification No. 1/2011-Central Excise dated 1st March, 2011.** The following additional goods are exempted from excise duty in excess of the amount calculated at the rate of 1% ad valorem:

- **Sl. No. 51A:** Gloves "specially designed for use in sports"
- **Sl No. 70A:** "Polyester staple fibre or polyester filament yarn manufactured from plastic scrap or plastic waste including waste polyethylene terephthalate bottles"
- **Sl No. 97:** Substituted by "Sewing machines other than those operated with electric motors, whether in-built or attachable to the body".

Sl. No. 63 and the entries relating thereto and **Sl. No. 104** are omitted.

FULL EXEMPTION FROM EXCISE DUTY ON GOODS SUPPLIED TO NATIONAL TECHNICAL RESEARCH ORGANISATION (NTRO)

The Ministry of Finance vide **Notification No. 10/2014-Central Excise dated 11th July, 2014 made further**

addition in the Notification No. 64/1995-Central Excise dated 16th March, 1965. "All goods" falling under the Schedule to the Central Excise Tariff Act, 1985 **are fully exempted from excise duty if**

- the said goods are manufactured by the Indian Offset Partner(IOP) of the contractor to the National Technical Research Organisation(NTRO).
- the said goods are supplied by IOP for use in radars acquired by NTRO from the contractor.
- before clearance of the said goods, the manufacturer furnishes a duty exemption certificate from an NTRO Officer not below the rank of Joint Secretary to the Govt. of India, indicating the details of the purchase order placed by the NTRO on the contractor and by the contractor on the IOP with proper description of the goods and the said goods, certifying that the said goods are intended for use in radars. The exemption will not be applicable on or after 1st January, 2019.

TRANSFER/SALE OF GOODS FOR PROJECTS FINANCED BY THE U.N. OR AN INTERNATIONAL ORGANISATION

The Ministry of Finance **vide Notification No. 11/2014–Central Excise dated 11th July, 2014 made further addition in the Notification No. 108/95-Central Excise dated 28th August, 1995.** The addition is described below: Where all goods falling under the Schedule to the Central Excise Tariff Act, 1985 are cleared before 01.03.2008, the manufacturer may

- transfer the goods to a new project subject to producing a certificate from an officer of the Central or State Govt or of a Unoin Territory before the ACCE or DCCE stating that the goods are not needed and also a declaration from the U.N., World Bank, Asian Development Bank or any other international organization listed in the annexure of the notification that the goods are needed for the new project approved by the Govt.of India.
- The depreciated value of the said goods shall be equal to the original value of the goods at the time of clearance reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of clearance of the said goods:

  For each quarter, 4% in the 1st year; 3% in the 2nd year; 2.5% in the 3rd and 2% in the subsequent years subject to maximum of 70%.

EXEMPTION ON EXCISE DUTY ON GOODS REQUIRED FOR NATIONAL AIDS CONTROL PROGRAMME FUNDED BY GFATM

The Ministry of Finance vide **Notification No. 13/2014-Central Excise dated 11th July, 2014** exempts the following goods from the payment of Excise Duty, required for National AIDS Control Programme funded by Global Fund to fight AIDS, TB and Malaria(GFATM):

- Anti-Retroviral Drugs (ARV Drugs)
- Diagnostics and Equipments

AMENDMENT IN CENVAT CREDIT RULES, 2004

The Ministry of Finance vide **Notification No. 21/2014-Central Excise (N.T.) dated 11th July, 2014 made further amendments in CENVAT Credit Rules, 2004.** The amendments are mentioned below:

- **Insertion of Rule 2(qa)** defining the words **"place of removal'.**
- The manufacturer and provider of output service shall not take CENVAT Credit after 6 months of the date of issue of any of the documents specified Rule 9(1) w.e.f. 1st September, 2014. **[Insertion after second proviso and fifth proviso to Rule 4(1) and Rule 4(7) respectively]**
- In respect of input service, credit shall be allowed to service receiver after the payment of 100% of service tax. However, under partial reverse charge mechanism, the CENVAT credit in respect of such input service shall be allowed on or after the day on which payment is made of the value of input service and the service tax paid or payable as indicated in invoice, bill or challan referred to in Rule 9. If the payment is not made of the value of input service and the service tax paid or payable under partial reverse charge mechanism, the manufacturer or the service provider who has taken credit on such input service, shall pay an amount equal to the CENVAT credit availed on such input service and in case the said payment is made, the manufacturer or output service provider, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier. **[Substitution of first and second proviso to Rule 4(7)]**
- If payment is received after extended period allowed by RBI but within 1 year from such period, then service provider can take the credit of the amount equivalent to CENVAT Credit paid earlier to the extent it relates to such payment on the basis of documentary evidence of the payment so received. **[Insertion of proviso after Rule 6(8)(b)]**

TRANSACTION VALUE DEEMED TO BE THE VALUE OF GOODS

The Ministry of Finance vide **Notification No. 20/2014-Central Excise (N.T.) dated 11th July, 2014 made further amendments in the Central Excise Valuation**

(Determination of Price of Excisable Goods) Rules, 2000 whereby **transaction value shall be the deemed value of goods** if price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee.

CUSTOMS

AMENDMENT IN THE NOTIFICATION NO. 51/96-CUSTOMS: EXEMPTION TO RESEARCH EQUIPMENT IMPORTED BY PUBLIC FUNDED AND NON-COMMERCIAL RESEARCH INSTITUTIONS AND I.I.T. ETC.

The Ministry of Finance vide **Notification No. 24/2014-Customs dated 11th July, 2014 made further amendment in the Notification No. 51/96-Customs, dated the 23rd July, 1996** which exempts goods falling within the First Schedule to the Customs Tariff Act, 1975 from so much of that portion of the customs duty leviable thereon as is in excess of the amount calculated at the rate of 5% advolerem and from the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when imported into India, by importers.

Amendment:

"3" Where the importer is not registered with the Government of India in the Department of Scientific and Industrial Research, he shall, at the time of clearance of the goods, pay the applicable duty of customs and additional duty on the goods imported, provided that after obtaining such registration and compliance of the specified conditions, he may file a claim for refund of such amount of the duty paid for which exemption is granted under this notification, within a period of one year from the date of payment of the said duties before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, having jurisdiction over the port of import or within such extended period not exceeding one year as the Commissioner of Customs may allow.

AMENDMENT IN BAGGAGE RULES, 1998

The Ministry of Finance vide **Notification No. 50/2014-Customs (N.T.) dated 11th July, 2014 made further amendments in the Baggage Rules, 1998.** The amendments are mentioned below:

- Increase in the **free baggage allowance from Rs.35,000 to Rs.45,000** for all passengers of and above 10 years of age and returning after stay abroad of more than three days.
- Increase in the **free baggage allowance from Rs.15,000 to Rs.17,500** for all passengers
    - of and above 10 years of age and returning after stay abroad of three days or less.
    - up to 10 years of age and returning after stay abroad of more than three days.
- **Reduction in the duty free allowance of cigarettes from 200 to 100, of cigars from 50 to 25 and of tobacco from 250 gm to 125 gm.**

INCOME TAX

SUPREME COURT DECISIONS

1. With reference to **Section 2(47)** and **Section 54** of the Income Tax Act, 1961, if an agreement to sell is entered into within the prescribed period, there is a transfer of some rights in favour of the vendee. **Fact that sale deed could not be executed within the time limit owing to supervening problem is not a bar for Section 54 exemption.** *[Sanjeev Lal vs. CIT (Supreme Court)]*

HIGH COURT DECISIONS

1. With reference to **Section 147** of the Income Tax Act, 1961, it is held that mere making **bald assertions that assessee has failed to make a full & true disclosure of material facts is not sufficient.** Details must be given as to which fact was not disclosed. *[Bombay Stock Exchange Ltd. vs. DDIT (E) (Bombay High Court)]*

2. There is **no violation of Section 269SS/269T** of the Income Tax Act, 1961 **in the transactions of loans & advances** as these are not cash transactions and are merely book entries by way of adjustment entries. **No question of levy of penalty u/s 271D/271E arises.** *[CIT vs. Saurabh Enterprises (Allahabad High Court)]*

3. **Deduction of Employees' contribution to Provident Fund** (which is covered u/s 43B) **is allowable if payment is made before due date of filing ROI.** *[CIT vs. Hindustan Organics Chemicals Ltd. (Bombay High Court)]*

4. **Losses on account of depreciation in value of securities held as stock is not notional and is allowable as a deduction**. *[CIT vs. HDFC Bank Ltd. (Bombay High Court)]*

5. **Mere admission of Appeal by High Court is sufficient to disbar Section 271(1)(c) penalty.** *[CIT vs. M/s Nayan Builders and Developers (Bombay HIGH Court)]*

6. **No Section 14A disallowance of interet paid on borrowings if assessee's own funds and non-interet bearing funds exceeds investment in tax-free securities.** *[CIT vs. HDFC Bank Ltd. (Bombay High Court)]*

ITAT DECISOIONS

1. With reference to **Section 68** of Income Tax Act, 1961, it is held that **the primary burden is on AO to show that share application money is assessable as unexplained cash credit.** AO cannot sit back with folded hands & simply reject assessee's evidences. *[Mithila Credit Services Ltd. vs. ITO (ITAT Delhi)]*
2. With reference to the **Explanation to Section 37** of the Income Tax Act, 1961, it is held that **if the purpose of the expenditure is not an offence/prohibited by law, then the fact that prior approval of the Government was not obtained cannot be the basis of disallowance.** *[Jai Surgicals Ltd. vs. ACIT (ITAT Delhi)]*

CONTRIBUTION MADE TOWARDS DISASTER RELIEF FOR THE AFFECTED PEOPLE OF UTTARAKHAND- 100% DEDUCTION U/S 80G OF THE INCOME TAX ACT

The Indian Revenue Service Association vide **Circular No. F. No. IRSA(AIB)/EC/Res./UK-DR/5 dated 15th July, 2014** held that **100% deduction under section 80G(2)(iiihf) of the Income Tax Act is available on contributions made for Uttarakhand disaster relief.** PAN of CM Relief Fund Uttarakhand, for claim of the deduction is **AAAGM0036M.**

REVISION OF PERFORMA B FOR SUBMISSION OF PROPOSAL TO FILE SPECIAL LEAVE PETITIONS

The CBDT vide **Order Instruction F. No. 279/Misc/M-20/2011-ITJ dated 1st July, 2014** revised Performa B for submission of proposal to file special leave petitions in relation to the Standard Operating Procedure (SOP) on filing of Appeals/ Special Leave Petitions (SLPs) by the Income Tax Department in the Supreme Court and related matters. The format of the same is provided in the above mentioned Instruction Order.

REVISION OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL, HIGH COURTS AND SUPREME COURT

The CBDT vide **Circular No. F No 279/Misc. 142/2007-ITJ (Pt) enclosing Instruction No. 5/2014 (Pt) dated 10st July, 2014** revised the monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and Supreme Court. Henceforth appeals shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

Appeals in Income-tax matters	Monetary Limit (in Rs.)
Before Appellate Tribunal	4,00,000/-
U/s 260 A before High Court	10,00,000/-
Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

WEST BENGAL TAXES

VAT

DEVELOPMENT OF MODULE OF ASSESSED DUES UNDER THE WBVAT ACT, 2003 (AVAILABLE IN DEALER'S PROFILE)

The Commissioner of West Bengal Sales Tax vide **Trade Circular No. 10/2014 dated 11th July, 2014** stated that in order to bridge the gap in electronic data, **an "Assessed Dues' Module" has been developed and given as a link in "Dealers' Profile" for the purpose of filing information regarding payments made and pending appeals, if any, by the dealer.** Necessary information can be filed online selecting a particular year starting from the year 2008-2009. Subsequent to updations by the dealer, it would be verified by the assessing officers and confirmed. The detailed procedure to be followed by a dealer is given in the Circular. This new procedure shall be deemed to have come into force from 15th July, 2014.

EXTENSION OF DATE FOR FILING OF FORM 16 FOR THE YEAR 2014-15 BY REGISTERED DEALERS UNDER THE WBVAT ACT, 2003

The Commissioner of West Bengal Sales Tax vide **Trade Circular No. 11/2014 dated 9th July, 2014** stated that considering the problems faced by the intending dealers either for failure of BSNL Network or for some other reasons, it is decided to **extend the date of electronic filing of Form 16 upto 31st August, 2014.** It is to be reiterated here that the **print-out of the Form 16 filed on-line must be furnished before the concerned authority on or before 31st August, 2014.**

QUERY & REPLY

QUERY 1: We have filed the VAT & CST Return online for the 4th quarter but the hard copy for the same was not submitted till date. Please advise me what are the solutions for the problem and penalty payable for the same. Is my return valid?
Sakar

REPLY: Returns are valid. Penalty for late submission has to be paid before submission of hard copy to the department.

QUERY 2: A non profit motive Limited Company (service receiver) is getting man power service from a non corporate service provider (an individual). The service provider collects from the service receiver, through his bill, 25% of the Service Tax as applicable on such man power service, and deposits the same with the service tax authorities. The balance 75% of the service tax is being deposited with the Tax authority, by the service receiver.

K.K. Saha

a) **Is the service provider right in collecting 25% of the service tax from the service receiver or he has to bear the cost himself?**

REPLY: Yes. As per notification no. 30/2012

b) **Can the service receiver take the benefit of the CENVAT Credit for the 25% of the service tax, that they are paying to the service provider, along with the cost of service?**

REPLY: Yes subject to other provisions of CENVAT Credit Rules.

c) **Can the service receiver take the benefit of CENVAT Credit for the 75% of the service tax that they are depositing with the Tax authorities?**

REPLY: Yes subject to other provisions of CENVAT Credit Rules.

QUERY 3: We are Real Estate Company and we have taken labour service from our contractor in January 2013. But contractor charged 12.36% on bill amount and we reimbursed all 12.36% to contractor as a labour supply.

According to law we had to (Contractee) charge 75% reverse charge Mechanism and balance 25 % by contractor but we had not complied with this because of less awareness of reverse charge. Now contractor have service tax audit and he needs work order from us i.e. from Real Estate Company.

What terms & condition should we have to give in work order so that we do not have any liability?

CA Amit Kumar Agarwal

REPLY: Relief specific to this case is provided in **Umasons Auto Compo Pvt. Ltd. Vs. Commissioner of Central Excise & Customs, Aurangabad [2014 - TIOL – 126 – CESTAT - MUM]** where it was It is held that once the amount of Service Tax is accepted by the Revenue from the provider of service, it cannot be demanded again from the recipient of the service.