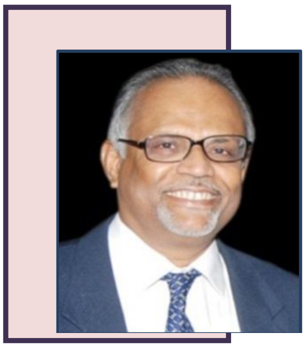
TAX CONNECT

SEVENTEENTH ISSUE APRIL 2015



Friends

The big confusion regarding change of the service tax rate from the existing 12.36% to the proposed 14% has been now cleared by various communications from the dept. Just to reiterate that the new Service Tax rate 14% is not effective immediately and shall come into effect only from a date to be notified later, probably by June. **However, there are various other changes which take place from 1.4.2015 like changes in abatements vide N No. 08/2015, changes in reverse charge vide N No. 07/2015, changes in exemptions vide N No. 06/2015, etc.** One needs to inculcate the changes in the systems on 31.3.2015.

At the West Bengal level, the Finance Act 2015 has been notified. There has been a drastic increase in Interest rates for delayed payment of assessed taxes in addition to other changes announced in the WB budget. Further, **an attractive Scheme for Settlement of Disputes** has also been circulated wherein assesses can settle their disputes in respect of periods ending on or before 31st March, 2010. **The dispute can be settled upon payment of a fraction of disputed tax. The amount of arrear interest related to arrear tax in dispute and penalty in dispute, if any, will be waived fully.**

In Income Tax, this could be reckoned as the toughest 31st March for Private Ltd. companies in Kolkata. Rampant add backs for capital raising in AY 2012-13 have left assesses gasping for breath. The Hon. High Court at Calcutta has stayed the arbitrary Internal Circulation/Direction by Pr CCIT, as against the law. However, due to the timing of this order, it could not bring about the much sought after relief to assesses. Such a stand taken by the department assuming all capital raising by Private Companies to be from Shell/Paper companies and interference by CCIT in assessment proceedings are in sharp contrast to the non-adversarial Tax regime promised by the Government. However, businesses should also note that the Government is moving fast and furious to build up a mechanism to identify tax evaders. **It is therefore important for businesses to build robust accounting systems to adapt to the dynamic environment. The day has come for having an online system of auditing, so that proper justifications can be compiled at the time of the transaction itself.**

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

DUE DATE	COMPLIANCES
07-Apr-15	Submission of Form No. 15G, 15H and 27C received in March to IT Commissioner)
07-Apr-15	Payment of TCS collected in March
10-Apr-15	West Bengal Sales Tax TDS Payment for the month of March,2015
10-Apr-15	ER1, ER2, ER6 Return for March,2015
10-Apr-15	ER1, ER2, ER6 Return for March,2015
15-Apr-15	Provident Fund e-Payment for March,2015
21-Apr-15	Payment of ESI for the month of March,2015
25-Apr-15	Service Tax Return for the half year ended March, 2015
25-Apr-15	West Bengal Sales Tax TDS Certificate Issue for the month of Jan.,2015
30-Apr-15	Payment of TDS for March, 2015
30-Apr-15	West Bengal VAT/CST/ Entry Tax/ Professional Tax Payment for the month of March, 2015
30-Apr-15	West Bengal VAT, CST, Entry Tax & Professional Tax Return for Quarter ended March 2015

Truly Yours

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Coming soon....

Comprehensive book on

Goods & Service Tax
(Concept, Issues, Model and Road Map)

By:
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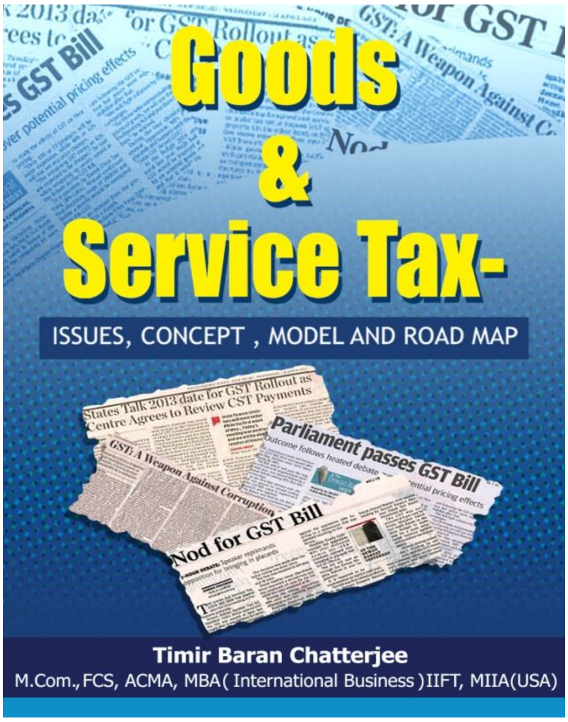

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SERVICE TAX

COURT DECISIONS

HIGH COURT DECISIONS

SIDDHARTH SURYANARAYAN V/S UNION OF INDIA SECRETARY MINISTRY OF FINANCE DEPARTMENT OF REVENUE AND OTHERS (Madras HC)

BRIEF: The petitioner claims to be an actor in movies and submits that his job involves skills to display different kinds of emotions, dialogue delivery skills and acting characters specified by film Director. He states that these skills are not different from an actor who performs with similar skills in theatre or drama. The petitioner has filed the present writ petition seeking to assail the notification No.25/2012 dated 20.06.2012 (1960) providing for an exemption in respect of services provided by performing artist or folk or classical art forms of music, dance or theatre from the liability towards service tax under Section 66-B of the Finance Act, 1994.

OUR COMMENTS: In the above case**, the Hon'ble Madras HC** held that an element of drama or acting in both the cases of theatre and films does not necessarily mean that the two activities are identical, taking into consideration the circumstances in which films are made and theatre is performed. Notification No.25/2012 dated 20.06.2012 provides exemption only to performing artists in theatre or drama and not to artists in films. The two categories are clearly different and distinguishable and cannot be treated at parity. The exemption vide this notification is given to support the native art and culture and encourage them as they suffer from financial constraints. This is not the position of films **[Decided against the assessee]**

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX LARGE TAXPAYER UNIT V/S M/S. TURBO ENERGY LTD. (Madras HC)

BRIEF: The assessee availed Cenvat Credit on outdoor catering services and rent-a-cab service provided in the factory premises to its employees. Dept. disallowed the credit stating that outdoor catering services and rent-a-cab services do not fall within the ambit of definition 'input service', specified under Rule 2(l) of the Cenvat Credit Rules, 2004. The Dept was of the view that catering/canteen services and rent-a-cab services were neither used in or in relation to the manufacture or clearance of final product, nor could it be said to be an activity relating to business.

OUR COMMENTS: In the above case**, the Hon'ble Madras High Court** held that as per the provisions of the Factories Act, 1948, any person carrying on the business of manufacturing cement by employing more than 250 workers is mandatorily required to provide canteen facilities to the workers, failure of which entails penal consequences under the Factories Act, 1948. The assessee has therefore engaged the services of an outdoor caterer which has an integral connection with the manufacturing of the final product. The issue raised in respect of **rent-a-cab services** has been considered by the **Hon'ble Karnataka High Court in the case of CCE Vs. Stanzen Toyetetsu India (P) Ltd.** where it was held that **rent-a-cab service** is provided to the workers to reach the factory premises on time which has a direct bearing on the manufacturing activity and will be considered at the time of fixing the price of the final product. Thus, the assessee is entitled to the Cenvat Credit of the aforementioned services. **[Decided against Revenue]**

However, w.e.f 1.4.2012, services provided by way of renting a motor vehicle is specifically excluded from the definition of Input Services except in certain cases. The relevance of the judgement currently has to be viewed taking into account such amendment.

UNION OF INDIA V/S M/S CHHATTISGARH STATE BEVERAGES CORPORATION (Chhattisgarh HC)

BRIEF: The assessee is a Government company of State of Chhattisgarh. The adjudicating officer issued four notices demanding service tax, interest and penalty from the assessee for being clearing and forwarding agent. The assessee claims to be a procurement agent for sale and purchase of liquor for the State rather than the clearing and forwarding agent as alleged.

OUR COMMENTS: In the above case**, the Hon'ble Chhattisgarh High Court** held that if the assessee was engaged in sale and purchase of liquor for the State, then no service tax was payable. On the basis of findings it was also clear that the assessee was not a clearing and forwarding agent for the State Government. Since the assessee is engaged in sale and purchase of liquor for the State, it does not fall within the definition of clearing and forwarding agent as defined in Section 65(25) of the Finance Act, 1994. **[Decided against Revenue]**

UNION OF INDIA V/S M/S RAIPUR ROTOCAST LTD. (Chhattisgarh HC)

BRIEF: The Assessee had utilized the Cenvat credit of the service tax on the insurance premium in respect of a Transit Insurance of induction furnace and transformer, Group Personal Accidental Policy and Group Health Guard Policy of Company staff for the period from March, 2005 to December, 2005. The Department issued a show cause notice in respect to disallowing the Cenvat Credit stating that the above service was not covered by the definition of input services.

OUR COMMENTS: In the above case, the **Hon'ble Chhattisgarh High Court** held that Rule 2(l)(ii) provides that 'input service' would include any service used by the manufacturer whether directly or indirectly in relation to the manufacture of final product and clearance of final products from the place of removal. Rule 2(l)(ii) is further defined by the description of certain services which are only inclusive. The transit insurance paid by the assessee on the aforesaid item is indirectly in relation to the manufacture of the final products and is included in service. And thus the Cenvat Credit is allowable. **[Decided against Revenue]**

CESTAT DECISIONS

M/S WELSPUN MAXSTEEL LTD. V/S COMMISSIONER OF CENTRAL EXCISE, RAIGAD (CESTAT Mumbai)

BRIEF: The appellant took input service credit on those services that were availed in course of their business activity being manufacturer of excisable goods. The Department by order denied the input service credit on the premise that the same do not qualify for the benefit under Rule 2(l) of the Cenvat Credit Rules, 2004.

The services in dispute are as under:-

(a) Running and maintenance of barges and tugs,

(b) Insurance services,

(c) Horticultural services and

(d) Canteen services

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that **insurance cover on employees and on their dependents** have no relation to the business activity of the appellant. Therefore credit availed on the service tax paid on the "insurance service" is not admissible. For the rest of the services appellant is entitled for input service credit as per the judgment of the **Ultra Tech Cement Ltd**. **[Decided in favour of assessee]**

K. PADMA V/S COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX - HYDERABAD-III (CESTAT Bangalore)

BRIEF: The appellant has made available their buses to the APSRTC under agreement wherein the APSRTC would ply the buses on predetermined routes covered by stage carriage permits held by the owner, with a time schedule fixed by the APSRTC, and the bus owner would provide the services of drivers to the Corporation and would be paid by the corporation, hire charges per km. Department had issued show-cause notice to the appellant demanding service tax along with interest under the head 'rent-a-cab' service and proposing penalties under various provisions of the Finance Act 1994. The appellate authority also ordered the assessee to predeposit 10% of the service tax.

OUR COMMENTS: In the above case **the Hon'ble CESTAT Bangalore** held that it is a prima facie view that the activity of the bus owners cannot be classified as rent-a-cab service. Accordingly, the demand is set aside and the pre-deposit is waived off. **[Decided in favour of assessee]**

RADIO MID DAY WEST (INDIA) LTD. V/S COMMISSIONER OF SERVICE TAX, MUMBAI-I (CESTAT Mumbai)

BRIEF: An audit was conducted in the factory of the appellant in February 2008 and it was found that the amount deducted on account of income tax as TDS was not included in the taxable value. Therefore, there was a short payment of service tax. Accordingly, impugned proceedings were initiated invoking the extended period of limitation. The appellant immediately paid the amount of differential service tax along with interest but show-cause notice was issued for imposition of penalty under Section 76, 77 and 78 of the Finance Act, 1994. The appellant is in appeal against the impugned order.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that the only error committed by the appellant is that they have not included the amount of TDS deducted at the time of calculating the taxable service and that may be due to the ignorance of law. Therefore, appellant are entitled to benefit of Section 80 of the Finance Act, 1994. Accordingly, as per Section 73 (1) of the Finance Act, 1994, the appellant were not required to be issued show-cause notice for imposition of penalty. Accordingly, after giving benefit of Section 80, the imposition of penalty against the appellant under various provisions of the Finance Act, 1994 is set aside. **[Decided in favour of assessee]**

CREDIT SUISSE SERVICES (INDIA) PVT.LTD. V/S COMMISSIONER OF CENTRAL EXCISE (CESTAT Mumbai)

BRIEF: The appellant is a unit in SEZ and provides IT Support Service and BPO Services. For rendering these output services, they receive various input services such as CHA services, Management Consultancy services, Business Support Services, etc. All these services are duly approved by the Development Commissioner, SEZ, as eligible input

services. In respect of these input services, the appellant claimed refund of service tax paid thereon under the provisions of Notification No. 9/2009-ST dated 3-5-2009 as amended by Notification No.15/2009 ST dated 20-5-2009 during the period October 2009 to February, 2011. The Dept. was of the view that services consumed wholly within the SEZ are exempt from tax and therefore, refund cannot be claimed on such exempt input services under the aforesaid notification and accordingly rejected the refund claims pertaining to services wholly consumed within the SEZ.

OUR COMMENTS: In the above case**, the Hon'ble CESTAT Mumbai** held that in the case of services which are wholly consumed within the SEZ, there is no necessity to discharge the service tax liability ab-initio. That does not mean that in a case where service tax liability has been discharged, the appellant is not eligible or not entitled for refund of the service tax paid under the provisions of Section 11B of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994. Following the decision **of Tata Consultancy Services [2012 CESTAT, MUMBAI]** and **Wardha Power Company [2012 - CESTAT, MUMBAI]**. **[Decided in favour of assessee]**

M/S MAN INDUSTRIES (INDIA) LTD. V/S COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX, LTU, MUMBAI (CESTAT Mumbai)

BRIEF: A Service Tax demand of Rs. 1,58,34,571/- has been confirmed against the appellant under the Reverse Charge Mechanism in respect of services received by the appellant during the period 18.4.2006 to 31.3.2008. The services received have been categorized under the head Business Auxiliary Services, Management & Consultancy Services and Consulting Engineers Service. Tax and Interest paid have been adjusted against the demand confirmed. In addition, penalties have been imposed under Sections 76, 77 and 78 of the Finance Act, 1994. Aggrieved of the same, the assessee filed the appeal.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that date of receipt of the services by the appellant, is crucial for the determination of exigibility of Service Tax and not the date of payment for the receipt of service. This position is settled by the Hon'ble High Court of Delhi in the case of Consulting Engineering Services (2013 - DELHI HC) and Vistar Construction Ltd. (2013 - DELHI HC). Therefore, the matter has to go back to the adjudicating authority for ascertaining the date of receipt of services by the appellant for which they had made payments to the service provider abroad. The appellant is directed to furnish documentary evidence in this regard. **[Decided in favour of assessee]**

COMMISSIONER OF SERVICE TAX, MUMBAI-I V/S M/S. RELIANCE CAPITAL ASSET MANAGEMENT LTD (CESTAT Mumbai)

BRIEF: The appellant is a service provider under the category of "Banking and Other Financial Services" and also "Business Auxiliary Services". A SCN was issued to the appellant alleging wrong availment of CENVAT Credit in respect of outdoor catering service. The Revenue claims that "outdoor catering service" is in the nature of fringe benefits to the employees and had no relationship with the output services rendered.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that outdoor catering service is an essential service without which output services cannot be provided by hungry employees. It was also held that in the case of **Ultra Tech Cement Ltd (Bombay HC)**, outdoor catering service was allowable only in the case of more than 250 workers as it was mandatorily required by the provisions of the Factories Act, 1948.This, however does not mean that the service was not required for any industrial service or organization having less than 250 workers who also feel hungry and are required to be provided with canteen facility. Thus, the assessee is entitled to Cenvat Credit in respect of outdoor catering service. **[Decided in favour of assessee]**

However, currently, services provided by way of outdoor catering are specifically excluded from the definition of Input Services. The relevance of the judgement currently has to be viewed taking into account such amendment.

M/S. TRANSCEND MT SERVICES PVT LTD V/S COMMISSIONER OF SERVICE TAX, DELHI (CESTAT New Delhi)

BRIEF: The appellant filed refund claims through electronic filing on ACES web portal as per the CBEC Circular No. 919/09/2010-CX dated 23.3.2010 and Trade Notice No. 14/ST/09 dated 17.9.09 under Rule 5 of the Cenvat Credit Rules, 2004 for the Cenvat credit remaining unutilized in their credit account. The appellant has not filed hard copy of the refund claim filed (electronically). Therefore, their refund claim was held as time barred. The assessee is in appeal against the same.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT New Delhi** held that refund claim was filed electronically, as per **Circular No. 919/09/2010-CX dated 23.3.2010**, within time limit prescribed as per **Section 11B of the Central Excise Act, 1944**. Once the refund claim has been filed electronically, date of filing of refund claim (electronically) should be considered as date of filing of refund claim even though the assessee had not filed the hard copy of the refund claim filed electronically. Thus, the matter was remanded to the adjudicating authority to consider the refund claim on merits being filed within time. **[Decided in favour of assessee]**

WIPRO LTD V/S COMMISSIONER OF CENTRAL EXCISE, PUDUCHERRY (CESTAT Chennai)

BRIEF: The appellants are providing services under the category of Information Technology, Software Services defined under Section 65 (105) (zzzze) of the Finance Act, 1994. There was a demand of service tax. The issue is whether non-payment of service tax on the importation of service which was later returned as defective to the foreign service provider is correct and permissible under the provisions of Finance Act, 1994 and Rules framed thereunder.

OUR COMMENTS: In the above case, **the Hon'ble CESTAT Chennai** held that since the purchase and cancellation entries were made within the time limit for making payment, the assessee was not liable to make any payment of service tax against these defective softwares and the claim of the assessee in this regard is acceptable. Thus, the demand of service is not sustainable. **[Decided in favour of assessee]**

KIRLOSKAR PNEUMATIC CO. LTD. V/S COMMISSIONER OF CENTRAL EXCISE, PUNE-III (CESTAT Mumbai)

BRIEF: The employees of the appellant had incurred travel expenses while providing output service and the said travel expenses were recovered from the service-recipient but the appellant had failed to pay service tax on the said expenses recovered from the service-recipient. Hence, a show cause notice was issued demanding service tax, interest and penalty. The assessee is in appeal against the same.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that a perusal of the sample invoice indicated separately the inspection, service charges and also the to-and-fro actual charges for travelling. It is clear that the appellant had discharged the appropriate service tax liability on the service charges billed by them for rendering services to the client. The amount that is collected by the appellant is travelling expenses incurred by the appellant's engineers to visit the site of the client. **Being a reimbursable expense, it is not includible for the purpose of calculating the value of taxable services. [Decided in favour of assessee]**

RAJE VIJAYSINGH DAFALE SSK LTD. V/S COMMISSIONER OF CENTRAL EXCISE, KOLHAPUR (CESTAT Mumbai)

BRIEF: The assessee was a sugar factory and due to default in payment of loans, the said factory was taken over by M/s. Maharashtra State Co-operative Bank Ltd. who leased out the factory to M/s. Rajaram Bapu Patil SSK Ltd. It cannot be said that the appellant rendered any 'manpower supply or recruitment service' as it has not received any consideration from the lessee who has paid the salaries and wages to the employees directly. A service tax demand had been ordered along with interest and penalty .

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that the lessor being a secured creditor had taken over the factory of the borrower under Section 13(2) of **The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002** to recover its dues and has leased out the factory of the borrower to the lessee. The lessee had then continued the services of the persons who were already working for the assessee, and paid them their salaries/wages directly. In this course, the assessee has not received any consideration and hence there was no question of demanding any service tax. **[Decided in favour of assessee]**

M/S. BHARAT FORGE LTD. V/S COMMISSIONER OF CENTRAL EXCISE, PUNE-III (CESTAT Mumbai)

BRIEF: The appellant is a manufacturer of crank shaft/forging. Further, the appellant clears its products both in DTA and export. For such export purpose, it availed the service of Overseas Commission Agent, who procured sale orders for the appellant. A show-cause notice was issued on the appellant confirming demands and penalties under various sections of the Finance Act, 1994 for not paying service tax on Reverse Charge Basis for the remuneration paid to the Overseas Commission Agent. The appellant is in appeal against the same.

OUR COMMENTS: In the above case, **the Hon'ble CESTAT Mumbai** held that appellant is not liable to tax on reverse charge basis prior to the period 18.4.2006. Thus, the demand for the period prior to 18.4.2006 is fully set aside along with penalty and interest. The appellant shall only be liable to pay the demand of Service Tax subsequent to 18.4.2006 along with interest as per Rule. Benefit of Section 80 is granted to the appellant and all penalties including u/s 78 are set aside. **[Decided in favour of assessee]**

CENTRAL EXCISE

COURT DECISIONS

SUPREME COURT DECISIONS

M/S SANJAY INDL CORPN AND ANOTHER V/S COMMISSIONER OF CENTRAL EXCISE, MUMBAI

BRIEF: The appellant is engaged in the business of cutting larger steel plates into smaller size and shapes as required

by the customers. The specifications are provided by the customers and the plates are also supplied by them to the appellant. The cutting operation is undertaken with the help of gas cutting machines, and the process is known as profile cutting. The appellant, under the belief that the aforesaid process does not amount to manufacture within the definition of Section 2(f) of the Central Excise Act, 1985 did not get himself registered under the said Act and therefore, was not paying any excise duty on the said product. According to the Dept. this amounted to 'manufacture' and an SCN was issued to the assessee.

OUR COMMENTS: In the above case **the Hon'ble Supreme Court** held that even as per the Department, there were certain doubts relating to taxability of the process of profile cutting. If the appellant also believes that the process carried on by him is not manufacture and did not pay excise duty, then the conduct of the assessee is bonafide. It is not a case of suppression of facts. Thus, proviso to Section 11A(1) would not be attracted. Once that is held, it is obvious that the period of limitation for serving SCN shall be six months. Here, the SCN given on 01.11.1996 covered the period from October, 1991, to September, 1996. However, the SCN could cover the period from May 1996 onwards only. **[Decided partly in favour of assessee]**

COMMISSIONER OF CENTRAL EXCISE, MUMBAI V/S M/S. BLUE STAR LTD.

BRIEF: The respondent herein is engaged in the manufacturing of air-conditioning machinery and parts thereof. Some of the air-conditioning units are manufactured by utilizing the parts manufactured in the same factory, and were sent by it to 100 % EOU without payment of duty, in terms of various notifications. A SCN dated 03.09.1992 was issued to it for the period from 24.08.1987 to 09.07.1991 for suppression of facts as per section 11A of the Central Excise Act.

OUR COMMENTS: In the above case, **the Hon'ble Supreme Court** seconded the decision taken by the CEGAT where it was held that a disclosure of the aforesaid fact in CT(3) certificate was submitted by the respondent to the Department. The fact that the goods were cleared without the payment of duty in terms of the exemption notification was specified in the application. No clearance could have taken place without the knowledge of the officer as to the ultimate destination of the goods. Thus, Section 11A could not be attracted and the SCN was quashed declaring the demand as time barred. **[Decided against Revenue]**

M/S. MARUTI SUZUKI INDIA LTD. V/S COMMNR. OF CENTRAL EXCISE

BRIEF: The Department by way of intelligence, gathered information that the appellant had cleared inputs/ spares after processing, but duty was only paid equivalent to the MODVAT credit taken on these inputs before processing, and hence a substantial increase in the value of these inputs has escaped payment of duty on account of value addition in such inputs after processing. More specifically, what was alleged was that various spare parts relatable to motor vehicles that were manufactured were procured by it in the form of bumpers, grills, etc., which have undergone the process of Electro Deposition anti-rust to increase the shelf life of the said bumpers, grills, etc., have escaped duty on account of the value addition of EDC.

OUR COMMENTS: In the above case the **Hon'ble Supreme Court** held that value addition without any change in name, character or end use of goods cannot possibly constitute criteria to decide as to what is manufacture. It is clear that the inputs that were removed from the factory remained the same despite ED coating and consequent value addition. In the case of S.R. Tissues Pvt. Ltd., it had been stated that on account of mere value addition, it cannot be said that manufacture has taken place, when in fact, it has not. It is clear, therefore, that the inputs procured by the assessee continued to be the same inputs even after ED coating and that Rule 57F(ii) proviso would therefore apply when such inputs are removed from the factory for home consumption, the excise duty payable being the amount of credit that has been availed in respect of such inputs under Rule 57A. **[Decided in favour of assessee]**

HIGH COURT DECISIONS

M/S CENTURY LAMINATING COM. V/S COMMISSIONER OF CENTRAL EXCISE, MEERUT(Allahabad HC)

BRIEF: The assessee applied for permission to store the inputs used outside the factory permission. This application was rejected subject to the condition that the assessee could bring in the goods in smaller lots and take credit on the receipt of the last and final lot. Based on the aforesaid direction, the assessee started bringing the goods in smaller lots and availed credit on receipt of the last and final lot. However, the last and final lot was received after the expiry of six months from the date of the initial issuance of the invoice. Thus a SCN was issued stating that the assessee had wrongly availed the credit.

OUR COMMENTS: In the above case **the Hon'ble Allahabad High Court** held that manufacturer shall not take credit after six months of the date of issue of any document. However, there wasn't any deliberate delay on the part of the assessee. Since the transaction was executed by the assessee on the direction of the Superintendent, the appellant was entitled to the credit. **[Decided in favour of assessee]**

M/S. INDIA CEMENTS LTD. V/S THE CUSTOM, EXCISE AND SERVICE TAX & THE COMMISSIONER OF CENTRAL EXCISE (Madras HC)

BRIEF: The appellant is a manufacturer of cement falling under Chapter 25 of the Central Excise Tariff Act. The assessee has been availing cenvat credit on inputs, input services and on capital goods which were utilized for payment of duty on their finished goods, viz., 'cement'. On verification of the accounts, the Department noticed that the assessee availed cenvat credit in respect on MS Rod, Sheet, MS Channel, MS Plate, Flat etc. The assessee claims that the said goods were capital goods. Alleging that the said goods were used in the construction work only, SCN was issued to the assessee stating that these are not capital goods and a demand was made on these goods.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** applied the principles laid down in the decision reported in the case of **Commissioner of Central Excise Jaipur V. Rajasthan Spinning & Weaving Mills Ltd.(Supreme Court)** and held that the assessee's contention was justified. The impugned goods were used for fabrication of structurals to support various machines like crusher, kiln, hoppers, pre-heaters conveyor system etc. and that without these structurals the machinery could not be erected and would not function. **[Decided in favour of assessee]**

COMMISSIONER OF CENTRAL EXCISE CHENNAI III COMMISSIONERATE V/S THE CONCRETE PRODUCTS & CONSTRUCTION COMPANY AND CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL (Madras HC)

BRIEF: The 1st respondent is a manufacturer of concrete sleepers and suppliers to the Indian Railways. The contract is for a fixed quantity. The contract envisages price variation clause. Escalation claims are preferred on regular basis, which on acceptance by the Railways, differential duty is paid. Due to escalation, price of the material cost/ labour is not possible to be given at a given point of time. The ACCE, Vellore, finalized the provisional assessment under rule 7 (3) of the Central Excise Rules and demanded interest of Rs.42,484/- on the differential duty. Aggrieved by the said assessment, the assessee preferred appeal before the Commissioner (Appeals), who allowed the appeal filed by the assessee against which the Revenue preferred appeal, however with an application seeking condonation of delay of 39 days in filing the appeal. However, the Tribunal rejected the said application seeking condonation of delay. Aggrieved against the said order of the Tribunal, the appellant/Department is before this Court by filing the present appeal.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that Court was not inclined to agree with the finding of the Tribunal refusing to condone the delay of 38/39 days in filing the appeal. The reason for the delay has been explained by the appellant. From the explanation offered by the appellant, it is clear that a decision was taken by a Committee of Commissioners and, therefore, there is no scope for the concerned Commissioner to interdict and seek for earlier review by the Committee. The delay was not within the hands of the concerned Commissioner. The decision of the **Supreme Court in Collector, Land Acquisition Anantnag & Anr Vs MST Katiji & Ors**, and in **State of Nagaland Vs LIPOK AO**, are squarely applicable to the facts of the present case as sufficient cause has been shown for condoning the delay. **[Decided in favour of Revenue]**

CESTAT DECISIONS

M/S 3M INDIA LTD. V/S COMMISSIONER OF CENTRAL EXCISE (LTU), BANGALORE (CESTAT Bangalore)

BRIEF: Appellant is a Large Tax Payer Unit (LTU) and is engaged in the manufacture of self-adhesives, plastic labels, glues, adhesives, etc. The appellant is availing benefit of Cenvat credit scheme in terms of the Cenvat Credit Rules, 2004. During the period of dispute the appellant had availed Cenvat credit on various input and input services of more than Rs.49 crores and it was submitted that the appellant received on an average 4500 to 5000 invoices/bills/challans etc. on the basis of which they availed credit. The appellant got the work of data entry and maintenance of records relating to Cenvat credit based on these documents by outsourced manpower. It is his submission that because of bona fide and genuine mistakes arisen, there was availment of excess credit of more than Rs.67 lakhs during the period and taking note of this fact during the audit of the appellants unit, proceedings were initiated culminating demand for wrongly availing Cenvat credit with interest and imposition of penalty.

OUR COMMENTS: In the above case **the Hon'ble CESTAT Bangalore** held that besides excess credit being availed, a short credit availment was also there which shows that there wasn't any malafide intention of the assessee. As soon as the omission was pointed out, the entire amount of Cenvat credit wrongly availed by them with interest was paid. Thus, it is clear that the excess availment of credit or the short availment of credit was due to clerical error and the penalty imposed was set aside.**[Decided in favour of assessee]**

M/S CIPLA LTD. V/S COMMISSIONER OF CENTRAL EXCISE, MUMBAI (CESTAT Mumbai)

BRIEF: The appellant is manufacturer of medicaments and procured capital goods and availed Cenvat credit on the

value of capital goods as per the invoice issued by the supplier of capital goods. The said capital goods were put into use, thereafter; the capital goods were sold on a transaction value with payment of duty on transaction value. Revenue is of the view that these goods were removed as such, thereafter, the appellant is required to reverse Cenvat Credit equivalent to the amount of Cenvat Credit availed on such capital goods. The proceedings were initiated against the appellant and the impugned orders confirmed the said demand.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that when the capital goods have been put to use and cleared on transaction value, the assessee is required to pay Central Excise duty on transaction value and not required to reverse Cenvat Credit availed on such capital goods. It is not res integra as already held in the decision of **Cummins India Ltd. (supra)**. Therefore, the impugned order is set aside. **[Decided in favour of assessee]**

UK. PAINTS INDIA PVT LTD V/S COMMISSIONER OF CUSTOMS, CENTRAL EXCISE AND SERVICE TAX, NOIDA (CESTAT New Delhi)

BRIEF: During the course of audit of the records of the appellants by the audit team of Officers of Central Excise, it was observed that during the period of 2009-2010 they had taken inadmissible Service Tax credit amounting to Rs.1,10,991/- on input services against invalid documents. Apart from the above on being asked the appellants provided details of such irregular input service credit taken in the year 2010-2011 and 2011-2012 amounting to Rs.26,541. Thus, a SCN was issued demanding interest and penalty alongwith.

OUR COMMENTS: In the above case **the Hon'ble CESTAT New Delhi** held that if opportunity of reconciliation is granted, they would be able to satisfy Commissioner (Appeals). To provide natural justice, one opportunity is granted. Accordingly stay application could not be considered at this stage and it is disposed off. Further Order-in-Appeal is also set aside and case is remanded back to Commissioner (Appeals who would listen to both the side after issuing notice and granting opportunity to produce documents, if any and decide the case within three months from the issue of this order. **[Decided in favour of assessee]**

PIRAMAL ENTERPRISES LTD. V/S COMMISSIONER OF CENTRAL EXCISE, RAIGAD (CESTAT Mumbai)

BRIEF: The appellant is in appeal against the impugned order wherein input service credit on Pest Control Service has been denied by the lower authorities on the premise that this service does not qualify as input service as per Rule 2(l) of CENVAT Credit Rules, 2004. It is also held that Pest Control service has no relation to the manufacturing activity of the appellants.

OUR COMMENTS: In the above case **the Hon'ble CESTAT Mumbai** held that any service availed by a manufacturer of excisable goods, in the course of their business, is entitled for input service credit. Admittedly, in this case the commission has been paid by the appellant for procuring the inputs and the pest control has been done in their factory for cleanliness of the factory. It is clear that the appellant has availed these services in the course of their business of manufacturing of excisable goods. Therefore, the appellant is entitled for input service credit. Accordingly, the impugned order is set aside. **[Decided in favour of assessee]**

AIMS INDUSTRIES LTD. V/S COMMISSIONER OF CENTRAL EXCISE DAMAN (CESTAT Ahmedabad)

BRIEF: The issue involved is whether appellant is required to add the value of the valve supplied during repairs & maintenance of the gas cylinders in the taxable value of services. The appellant argues that valves are separately sold while providing the services on which Sales Tax/VAT is discharged. Appellant is also taking CENVAT Credit of the valves used in the maintenance & repairs.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Ahmedabad** held that after perusal of the representative invoices produced, it is not coming out whether VAT is paid on the sale of valves as claimed by the appellant. Even if it is accepted that while providing the services there is sale of valves the same will amount to clearing of inputs as such on which CENVAT Credit is required to be reversed at the time of clearance as per CENVAT Credit Rules 2004. As the factum of payment of VAT/Sales Tax is not coming out of the copies of invoices relied upon by the appellant, the matter is required to be remanded to the adjudicating authority for such verification. Appellant is required to produce all the records before the adjudicating authority that VAT/Sales Tax is paid on the valves sold to the customers during the course of providing services. **[Decided in favour of assessee]**

COMMISSIONER OF CENTRAL EXCISE, AURANGABAD V/S UNIVERSAL ENTERPRISES (CESTAT Mumbai)

BRIEF: The assessee undertook cutting to shape of plastic firms and sheets as per customer's requirements and cleared such cut films and sheets without payment of duty. This activity of cutting the plastic films and sheets into required shape by the customers would amount to "manufacture". Hence, a duty demand has been confirmed along with interest and penalty.

OUR COMMENTS: In the above case **the Hon'ble CESTAT Mumbai** held that the activity undertaken by the appellant is cutting of plastic sheets/films purchased from the market into required shapes and sizes such as annular foam ring, rounds and squares as required by the customers. Merely cutting a sheet or film into required shape of size does not result in bringing into existence any new product and therefore, there is merit in the contention of the respondent that the activity undertaken by them did not amount to "manufacture". **[Decided against Revenue]**

COMMISSIONER OF CENTRAL EXCISE, AURANGABAD V/S UNIVERSAL ENTERPRISES (CESTAT Mumbai)

BRIEF: The assessee undertook cutting to shape of plastic firms and sheets as per customer's requirements and cleared such cut films and sheets without payment of duty. This activity of cutting the plastic films and sheets into required shape by the customers would amount to "manufacture". Hence, a duty demand has been confirmed along with interest and penalty.

OUR COMMENTS: In the above case **the Hon'ble CESTAT Mumbai** held that the activity undertaken by the appellant is cutting of plastic sheets/films purchased from the market into required shapes and sizes such as annular foam ring, rounds and squares as required by the customers. Merely cutting a sheet or film into required shape of size does not result in bringing into existence any new product and therefore, there is merit in the contention of the respondent that the activity undertaken by them did not amount to "manufacture". **[Decided against Revenue]**

CUSTOMS

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 1/2015-Customs (SG) dated 13th March 2015** hereby imposes on ***"Saturated Fatty Alcohols with carbon chain length of C8, C10, C12, C14, C16 and C18 including single, blends and unblended (not including branched isomers) which includes blends of a combination of carbon chain lengths, C12-C14, C12-C16, C12-C18, C16-18 and C14-C16 (commonly categorized as C12-C14)" excluding Saturated Fatty Alcohols with carbon chain length of pure C8***, falling under ***tariff item 2905 17 00 or sub-heading 3823 70 of the First Schedule to the Customs Tariff Act***, when imported into India, a safeguard duty at the following rate, namely:-

a) 20% ad valorem when imported during the period from 28th August, 2014 to 27th August, 2015 (both days inclusive);

b) 18% ad valorem, when imported during the period from 28th August, 2015 to 27th August, 2016 (both days inclusive); and

c) 12% ad valorem, when imported during the period from 28th August, 2016 to 27th February, 2017 (both days inclusive).

OUR COMMENTS: The notification is self explanatory.

COURT DECISIONS

SUPREME COURT DECISION

M/S. ORACLE INDIA PVT LTD V/S THE COMMISSIONER OF CUSTOMS, BANGALORE (Supreme Court)

BRIEF: This is an application for stay of the demand of interest as well as the penalty. The Department is of the view that there may be grant of stay as far as the penalty is concerned but as far as the interest component is concerned, the appellant should pay at least 50% of the same. The assessee submits that his goods which have been imported and also the goods that are meant for the export have been detained at Chennai Port Trust and Bangalore Airport/Customs Depot and there is no justification for such detention.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that applicant shall submit an undertaking within one week from the date of judgement that it will deposit an amount of Rs. 40,00,00,000 with the respondent no.1 within 6 weeks from the date of the judgement. On such undertaking being given, the items which are lying at the Chennai Port Trust and Bangalore Airport/Customs Depot shall be released on payment of usual duty. **[Decided conditionally in favour of assessee]**

HIGH COURT DECISION

COMMISSIONER OF CUSTOMS (EXPORTS) CUSTOM HOUSE V/S M/S. SAYONARA EXPORTS PVT. LTD., CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL (Madras HC)

BRIEF: The 1st respondent imported RDB Palmolein (edible grade) and paid extra duty deposit (for short 'EDD') of Rs.1,13,004/- for the purpose of provisional assessment of the imported goods, pending survey report. On submission of the report, the Department finalized the provisional assessment on 9.6.00 and forwarded the file to the Refund Section for refund of the EDD. The Assistant Commissioner of Customs (Refund), suo-moto, passed an order on 15.9.05 holding that no refund application has been filed as required under Explanation II to Section 27 of the Act and the refund application should have been filed within six months from the date of finalization of provisional assessment and, therefore, rejected the claim.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that the assessee has paid provisional duty which gets reduced on final assessment. The assessee, therefore, becomes entitled to refund which is payable in terms of Rule 9B of the Excise Act, 1944 or Section 18 of the Act. For refund on this account, no application is required to be filed u/s 27 of the Act and therefore, sub-Section (2) relating to unjust enrichment is not applicable. Further, insertions vide sub-sections (3), (4) and (5) to Section 18 are effective from 13.07.06 and obviously are not applicable to the case in hand as they do not have retrospective effect. Following decision of **Commissioner Of Customs V/s Indian Oil Corporation-(Delhi HC-2012) [Decided in favour of assessee]**

CESTAT DECISIONS

AUTOMARK INDUSTRIES (I) PVT LTD. V/S COMMISIONER OF CENTRAL EXCISE, NAGPUR (CESTAT Mumbai)

BRIEF: The appellant being a trader imported goods and paid SAD thereon as applicable. Later on, the goods have been cleared on payment of CST/VAT. Thereafter, they filed the refund claim of SAD paid by them at the time of importation. The refund claim was rejected by the lower authorities on the premise that in terms of Section 28C of the Customs Act, 1962, the duty component has not been mentioned in the invoice. Further, there is no endorsement on the invoice regarding that no additional duty on custom levied in the goods shall be admissible in respect of these goods.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that as per **Section 28C of the Customs Act, 1962**, if the assessee is paying duty then same should be reflected in the sale invoice. Admittedly, in this case the appellant has not paid any duty on their clearances except VAT/CST which has been shown separately in the invoice. Further, refund of SAD is applicable where the assessee cleared the goods on payment of VAT/CST. The endorsement regarding that no credit of additional duty of customs is available to the buyer, is clearly mentioned in the invoice. Hence, the impugned order is set aside. **[Decided in favour of assessee]**

M/S EXPRESS TRANSPORT PVT LTD. V/S CC(I), MUMBAI (CESTAT Mumbai)

BRIEF: The appellants are in appeals against the impugned order for imposing penalties under Section 112(a) and 114AA of the Customs Act, 1962.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT** Mumbai held that as the matter has been settled by the Settlement Commission against the importer who is the main party in the case therefore, relying on the decision of **S.K. Colombowala (CESTAT Mumbai)** wherein it has been held that cases against all co-noticees comes to an end once order of settlement is passed in respect of the person entitled to file an application before the Settlement Commission Therefore, as in this matter also the case against the main party i.e. the importer has been settled by the Settlement Commission and therefore proceedings initiated against all notices comes to an end. Hence, the impugned order is set aside. **[Decided in favour of assessee]**

VIJAY STEEL INDUSTRIES V/S COMMISSIONER OF CUSTOMS (EP), MUMBAI (CESTAT Mumbai)

BRIEF: The appellant is a small trader and imports stainless steel industrial raw material on payment of proper customs duty and 4% SAD. They are selling these goods in the local market on payment of CST/VAT. They are issuing invoice to the buyer making an endorsement that the credit of SAD will not be applicable. But in the instant case, they have not made endorsement in the invoice issued in the name of Vishal Steel, who is not registered with the Central Excise department. Therefore, they did not endorse on the invoice with regard to the fact that credit is not available to the buyer. Thus, the refund claim was rejected. The appellants are in appeal against the impugned order rejecting the refund claim.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that as per **Notification no. 102/07** there should be an endorsement on the invoice that the credit of SAD paid will not be available as credit to the buyer. Admittedly, in this case, although there is no endorsement on the invoice, the buyer is also not able to take credit as the buyer is not registered with the Central Excise department. As the buyer is not able to take credit of SAD, the condition of Notification no. 102/07 is fulfilled to entitlement of the refund of SAD. In these circumstances, the appellant is entitled for refund claim. **[Decided in favour of assessee]**

M/S IMRAN TRADING ESTABLISHMENT V/S COMMISSIONER OF CUSTOMS (GENERAL), MUMBAI (CESTAT Mumbai)

BRIEF: The importer imported Garlic in the year 1999. Dept alleged that the goods, namely, Garlic were not Dried Garlic and, therefore, subjected to import restriction as per the Circular issued by DGFT on 17.9.1999. According to which, for goods to be classified as dried garlic, moisture content should not exceed 10%. After issue of SCN in the year 2000 the case was adjudicated in 2014. The Commissioner confiscated the goods and imposed redemption fine of Rs.20,00,000/- and imposed penalty of Rs.4,00,000/- on the appellant and Rs.1,00,000/- on the partner of the appellant u/s 112(a) of the Customs Act. At the time of provisional release of the goods the appellants

had deposited Rs.25,00,000/- and executed a bond. In the adjudication order, the entire amount of redemption fine and penalties have been appropriated from the Revenue deposit of Rs.25,00,000/- made at the time of provisional release.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that it is not a case of misdeclaration of the goods. Issue involved herein is covered by the ruling in the case of **Suchitra Components Ltd. (2007 – Supreme Court**) Accordingly, Circular dated 17.9.1999 will not have retrospective effect. In absence of any prescribed moisture content, confiscation and penalties are set aside. **[Decided in favour of assessee]**

JAI DURGE TRADING CO. V/S COMMISSIONER OF CUSTOMS (IMPORT) (CESTAT Mumbai)

BRIEF: The appellant did not clear the goods covered by the IGM consisting of 1,19,887 Kgs. of black matpe within a period of thirty days as stipulated under Section 48 of the Customs Act nor did they discharge the Customs duty liability. Therefore, the shipping agent has applied for amendment of the IGM for substitution of appellant's name with that of M/s. BGH Exim Ltd., inasmuch as the goods were incurring heavy detention/demurrage charges and the latter was willing to clear the goods. Accordingly, the Assistant Commissioner has allowed amendment of the IGM. The appellant is in appeal against the same.

OUR COMMENTS: In the above case, the **Hon'ble** CESTAT Mumbai held that Section 149 of the Customs Act provides for amendment of IGM as per the discretion of the proper officer. Since the importer did not clear the goods nor did he pay duty within thirty days from the date of unloading of the goods, it clearly shows that the appellant was not interested in clearance of the goods and had abandoned their claim of the goods. Therefore, the amendment of the IGM sought by the shipping agent for substituting the name of the importer with M/s. BGH Exim Ltd. cannot be faulted at all. When an importer fails to pay for the goods and abandons/refuses them, the supplier continues to remain the owner of the goods and that he can transfer the document of title to another person and thereafter person will be entitled to clear the goods.**[Decided against assessee]**

SURAT TEXTILES MILLS LTD. V/S COMMISSIONER OF CUSTOMS (IMPORT), NHAVA SHEVA(CESTAT Mumbai)

BRIEF: **The appellant imported certain plants and machinery for set up of synthetic filament yarn unit under the Project Import Regulation. At the time of importation of the impugned goods, the appellant made a security deposit and also paid the duty for clearance of the goods provisionally. Later on, the assessments were finalized. It was found that the security deposit made by the appellant is in excess of the duty payable by them. Consequent to it, the appellant filed a refund claim which was rejected on the premise that the appellant has failed to pass the bar of unjust enrichment.**

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that even when Section 27 had provisions relating to provisional assessment prior to when Section 18 was not amended prior to 2006 to incorporate the provisions of the bar of unjust enrichment, the provisions of the bar of unjust enrichment would not apply. The bar of unjust enrichment arises after process of finalization of adjustment of duty and assessment is completed. Therefore, in case where security deposit is made provisionally and the assessment is finalized the bar of unjust enrichment is not applicable. **[Decided in favour of assessee]**

INCOME TAX

NOTIFICATIONS, CIRCULARS & INSTRUCTIONS

The **CBDT vide Notification No. 22/2015 dated 13th March 2015** hereby notifies that **Indian Institute of Technology (BHU), Varanasi** (**PAN - AAAJI0396R**) has been approved by the Central Government for the purpose of **section 35(1)(ii) of the Income-tax Act, 1961** read with **Rules 5C and 5E of the Income Tax rules 1962** from Assessment year 2014-2015 and onwards in the category of "University College and other Institution", engaged in research activities subject to the following conditions, namely:-

i) The sums paid to the approved organization shall be utilized for scientific research;

ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;

iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, and get the books audited.

OUR COMMENTS: The Central Government shall withdraw the approval if the approved organization fails to maintain separate books of accounts, fails to furnish its audit report, fails to furnish its statement of the donations received and sums applied for scientific research, ceases to carry on its research activities or its research activities are not found to be genuine; or ceases to conform to and comply with the provisions of section 35(1)(ii) of the Income-tax Act, 1961 read with Rules 5C and 5E of the Income Tax rules 1962.

The **CBDT vide Notification No. 21/2015 dated 10th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) 'Uttar Pradesh Electricity, Regulatory Commission', a Commission constituted under the Uttar Pradesh Electricity Reforms Act, 1999 in respect of the following specified income arising to the said Commission, namely:-

a) amount received in the form of government grants;
b) amount received as license fees and fines;

interest earned on government grants, license fees and fines.

This notification shall be applicable for the financial years 2011-12 to 2015-16.

The **CBDT vide Notification No. 26/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 "**Kerala Toddy Workers' Welfare Fund Board**", a Board established under the Kerala Toddy Workers' Welfare Fund Act, 1969 (Kerala Act No. 22 of 1969), in respect of the following specified income arising to that Board, namely:-

a) sums received under Kerala Toddy Workers' Welfare Fund Act, 1969
b) contribution from the members as defined in clause (b) of section 2 of the Kerala Toddy Workers' Welfare Fund Act, 1969
c) interest earned from deposits in banks.

This notification shall be applicable for the financial years 2013-14 to 2017-18.

The **CBDT vide Notification No. 27/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 "**Joint Electricity Regulatory Commission for the State of Goa and Union territories**". a Commission constituted by the Government of India, in respect of the following specified income arising to that Commission, namely:-

a) petition fees;
b) licence fees;
c) interest earned from deposits in banks

This notification shall be applicable for the financial years 2011-12 to 2015-16.

The **CBDT vide Notification No. 28/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) "**Bihar Electricity Regulatory Commission**", a Commission constituted by the Government of Bihar in respect of the following specified income arising to that Commission, namely:-

a) amount received in the form of Government grants;
b) amount received as licence fee from licensees in electricity
c) amount received as application processing fee; and
d) interest earned on Government grants and fee received

This notification shall be applicable for the financial years 2011-12 to 2015-16.

The **CBDT vide Notification No. 29/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) **Maharashtra State AIDS Control Society**, a body constituted by the Government of Maharashtra in respect of the following specified income arising to that Society, namely:-

"Amount received in the form of grants-in-aid from the Central Government".

This notification shall be deemed to be applicable for the financial years 2011-12 to 2013-14 and shall be applicable for the financial Years 2014-2015 and 2015-2016.

The **CBDT vide Notification No. 30/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) "**Chhattisgarh Building and Other Construction Workers' Welfare Board**", a Board constituted by the Government of Chhattisgarh in respect of the following specified income arising to that Board, namely:-

a) workers welfare cess;
b) interest income; and
c) registration fee.

This notification shall be applicable for the financial years 2013-14 to 2017-18.

The **CBDT vide Notification No. 31/2015 dated 24th March 2015** hereby provides that the Central Govt. has notified for the purposes of clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) "**West Bengal Transport Workers' Social Security Scheme**" of West Bengal State Social Security Board established by Government of West Bengal, in respect of the following specified income arising to that Board, namely:-

a) amount received in the form of Government grants;
b) amount received as cess under the West Bengal Motor Transport Workers' Welfare Cess Act, 2010 (West Bengal Act V of 2010) and rules framed thereunder;
c) amount received as registration fees and renewal fees paid by the registered beneficiaries;
d) interest earned on fixed deposits.

This notification shall be applicable for the financial years 2014-15 to 2018-19.

However, all of the above mentioned in Notifications 21/2015 and 26/2015 to 31/2015 should file return of income in accordance with the provision of 139 (4C) (g) of the Income Tax Act, should not engage in any commercial activity and the activities and the nature of the specified income derived shall remain unchanged throughout the financial years.

OUR COMMENTS: Section 10(46) deals with specified income arising to a body or authority or Board or Trust or Commission, established by or under a Central or State Act or by a Central or State Govt with the object of regulating or administering any activity for the benefit of the general public, which would be exempt from tax subject to the condition that the said entity is not engaged in any commercial activity.

CONSTITUTION OF BENCH BY THE SUPREME COURT TO DEAL WITH TAX MATTERS

The CBDT vide **Circular - Income Tax dated 10th March 2015** provides that the Hon'ble Supreme Court has constituted a bench to deal exclusively with Tax matters on all working days. This bench shall be functional w.e.f. from 9th March, 2015. The website of the Supreme Court generally displays the advance cause list for next 10 days and so the Principal Chief Commissioner / Chief Commissioner / Pr. Commissioner / Commissioner(s) should keep themselves prepared for the cases in their jurisdiction for any briefing / service of notice / information as may be required.

OUR COMMENTS: This will necessarily meet the requirements of the Court on real-time basis and cases can be decided on short-notice also.

CLARIFICATION REGARDING EXPLANATION 5 TO CLAUSE (i) OF SUB-SECTION (1) OF SECTION 9 OF INCOME-TAX ACT, 1961

The **CBDT** vide **Circular No. 4 /2015 dated 26th March 2015** has hereby clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

OUR COMMENTS: It is therefore, clarified that the dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would not be deemed to be income accruing or arising in India by virtue of the provisions of Explanation 5 to section 9 (1) (i) of the Act.

COURT DECISIONS

SUPREME COURT DECISIONS

GAS CASH SOLUTIONS (I) PVT. LTD. & ANR V/S ASSTT. COMMNR. OF INCOME TAX & ANR.

BRIEF: The assessment order does not indicate that the amount in question which has been seized i.e. Rs.1,18,87,490/- does not belong to the clients of the petitioner. This amount has not been added to the income of the petitioner. In paragraph 7 of the impugned order, the High Court had directed the respondents to complete the inquiry and verification within the time fixed in the Income Tax Act.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that as is clear from the order of the High Court the respondents have been ordered to complete the inquiry and verification within the time fixed in the Income Tax Act. The order of the High Court was passed three years ago, and thus the time fixed for the inquiry and verification had long expired. Thus, the respondents were directed to return the seized amount of Rs.1,18,87,490/- to the petitioner within a period of four weeks from the date of order of the Supreme Court.

TAPARIA TOOLS LIMITED V/S JOINT COMMISSIONER OF INCOME TAX

BRIEF: The question of law, in the given circumstances, which has arisen for consideration is as to whether the liability of the assessee to pay the interest upfront to the debenture holder is allowable as a deduction in the first year itself or it is to be spread over a period of five years, being the life of the debentures? The A.O. had treated the expenditure as deferred revenue expenditure to be written off over a period of five years.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that since the assessee did not want spread over of this expenditure over a period of five years as in the return filed by it, it had claimed the entire interest paid upfront as deductible expenditure in the same year. It was permissible in law that the assessee could claim the expenditure in the year in which it was incurred. Merely because a different treatment was given in the books of accounts cannot be a factor which would deprive the assessee from claiming the entire expenditure as a deduction. This has repeatedly been held by the Supreme Court that entries in the books of accounts are not determinative or conclusive and the matter is to be examined on the true basis of provisions contained in the Act. Since the assessee chose to claim the entire expenditure in the year in which it was spent/paid, AO was bound to carry out the assessment in the manner the return was filed. Thus the assessee would be entitled to deduction of the entire expenditure in the year in which the amount was actually paid. **[Decided in favour of assessee]**

HIGH COURT DECISIONS

COMMISSIONER OF INCOME TAX, SILIGURI V/S M/S SHELCON PROPERTYIES (P) LTD (Calcutta HC)

BRIEF: The assessee is engaged in the business of construction of housing projects. The assessee filed its return of income for the assessment year 2009-10 on February 11, 2010, showing the gross income of 1,47,06,878. The assessee claimed deduction of 94,67,987 under section 80-IB(10) of the Income-tax Act. The Assessing Officer completed the assessment under section 143(3) of the Income-tax Act without allowing the deduction claimed by the assessee. The assessee preferred an appeal which was dismissed by the Commissioner of Income-tax (Appeals).

OUR COMMENTS: In the above case, the **Hon'ble Calcutta High Court** held that benefit can only be availed of by the assessee if he has filed his return on time. If he has not filed his return on time, the benefits cannot be claimed. The benefit, in the present case, can only be claimed in case of fulfilment of the pre-conditions laid down under section 80AC of the Income-tax Act. When the pre-conditions have not been fulfilled, the benefit cannot be claimed. **[Decided in favour of Revenue]**

SUNWORLD INFRASTRUCTURE PVT LTD V/S ITO, WARD-24(3), NEW DELHI (Delhi HC)

BRIEF: The petitioner filed its return on 14.9.2012. The end of the Financial Year would be 31.3.2013. Six months therefrom would end on 30.09.2013. In other words, the notice under Section 143(2) could have been issued on or before 30.09.2013. The assessee has regularly been filing the returns in Delhi. Notice under Section 143(2) was issued by the Income Tax Officer, Ward-12(2), Bangalore on 10.09.2013. The next notice was served on 24.12.2014 by ITO Ward-24(3), New Delhi.

OUR COMMENTS: In the above case, the **Hon'ble New Delhi High Court** held that no order of transfer u/s 127 had been made by the ITO, Ward-6(1) (1), Bangalore to ITO Ward-24(3), New Delhi. Since, the Bangalore Office of the Income Tax Department did not have jurisdiction in this case, the first notice therefore, which was issued by an Officer having jurisdiction was on 24.12.2014. This was issued clearly beyond the period of limitation which has been prescribed, i.e., beyond 30.09.2013 in this case. As such, the impugned notice dated 24.12.2014 issued under Section 143(2) of the said Act is barred by time. **[Decided in favour of assessee]**

THE COMMISSIONER OF INCOME TAX, DEPUTY COMMISSIONER OF INCOME TAX V/S INDUSTRIAL HYDRAULICS PVT. LTD. (Karnataka HC)

BRIEF: The assessee, M/s B.P.C.Desai, was a proprietary concern which was converted into a Pvt. Ltd. Co under the name and style "M/s.Industrial Hydraulics Pvt. Ltd." For A.Y. 1995-96 return was filed under Section 143(1)(a) of the Act by the assessee claiming deduction under Section 80-IA. The AO passed an order u/s 154 rejecting the relief under Section 80-IA which was set aside by the Tribunal. Thereafter, the AO issued notice u/s 148 and reopened the assessment stating that since there was sale of going concern and formation of Pvt. Ltd. Co, there was capital gain, for which tax was liable to be paid by the assessee u/s 50-B of the Act and disallowed the deduction claimed by the assessee u/s 80-IA and accordingly, passed the order of assessment on 30.03.2000.

OUR COMMENTS: In the above case, the **Hon'ble Karnataka High Court** held that in order to claim deduction u/s 80-IA assessee has to satisfy that Industrial undertaking must be set up on or after 01.04.1991 and before 31.03.1995. Industrial undertaking is not formed by splitting up or reconstruction of a business already in existence (subjected to certain other conditions as specified in Section 80-IA.)The transferred assets of old business should not exceed 20% of the total value of the machinery or plant used in the new business and it should not manufacture or produce articles specified in the Eleventh Schedule. The records show that the assessee has not fulfilled the above conditions and therefore the benefit u/s 80-IA had been rightly disallowed. **[Decided in favour of Revenue]**

THE COMMISSIONER OF INCOME-TAX V/S N. ARUMUGAM (Madras HC)

BRIEF: The assessee purchased 1.35 acres of agricultural land in the year 1993 for a sum of Rs.1.12 lakhs and developed the property as housing plots. During the A.Y. under consideration, the assessee sold 21 plots for a consideration of Rs.19,52,390/- and offered the said profit earned as long term capital gains. During the completion of scrutiny assessment, the A.O. took the view that the assessee was in the line of real estate business and had been consistently receiving income from real estate business for the past six years and therefore, the activity of the assessee could be taken as income from LTCG, but from real estate business. Hence, the A.O. held that the profit earned from housing plots was income earned from business.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that neither in the assessment order nor in the order of the CIT (Appeals) there is any material to show that the assessee is engaged continuously in the business of purchasing and selling of land with or without development, as has been observed by the Commissioner of Income Tax (Appeals). A solitary instance of purchase in the year 1993, development and plotting out in the AY 2001 cannot partake the character of business venture or profit. Therefore, the gains arising from sale of land is not business profit and liable only to be assessed under capital gains. **[Decided in favour of assessee]**

THE COMMISSIONER OF INCOME TAX, TAMIL NADU-III, MADRAS V/S M/S. SSM. ESTATES LTD. (Madras HC)

BRIEF: The assessee is having godowns/warehouses. The Assessing Officer completed the assessment and held that the income from warehousing has to be taxed as income from house property only. Aggrieved by the same, the assessee filed appeals.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that the assessee provides logistic services. The assessee company had approached its business by making use of the godown in a noble way, which is not merely a case of letting out on rent. The warehouse charges received by the assessee-company arise out of commercial assets and they are business receipts. Therefore, the assessee company is providing logistic services to its clients for the purpose of earning profit and hence it is a business activity. **[Decided in favour of assessee]**

COMMISSIONER OF INCOME TAX V/S M/S. SAKA MARKETING SERVICES P LTD. (Madras HC)

BRIEF: The question to be answered is:
"Whether interest u/s 234B of the Income Tax Act can be levied for default in payment of advance tax when the income is computed u/s 115JA of the Act?"

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that all companies were liable for payment of advance tax and consequently the provisions of sections 234B and 234C imposing interest on default in payment of advance tax were also applicable. An identical issue was answered against the assessee in the case of **Joint Commissioner of Income Tax v. Rolta India Limited** [2011-Supreme Court] **[Decided in favour of Revenue]**

COMMISSIONER OF INCOME TAX V/S NISHI MEHRA, ARUN MEHRA, SUSHIL MEHRA, SUBHASH MEHRA, SURBHI MEHRA, MANJU MEHRA(Delhi HC)

BRIEF: The assessees had purchased eight different properties which were related to each other. The allegations made by the Revenue against the firm and its partners were that the high profit margins enjoyed by it were concealed and only modest amounts were disclosed in the ITRs. The A.O. referred the properties for valuation to the District Valuation Officer under Section 142A of the Income Tax Act and later concluded that there was a serious discrepancy between the declared and the value determined by the DVO and thus made additions

OUR COMMENTS: In the above case, the **Hon'ble Delhi High Court** held that it is settled law that in the absence of any incriminating evidence that anything has been paid over and above than the stated amount, the primary burden of proof is on the Revenue to show that there has been an understatement or concealment of income. It is only when such burden has been discharged, would it be permissible to rely upon the valuation given by the DVO. However, there was no material in the course of the search pointing to under valuation of the assessees' properties which were ultimately held to have been the subject of under valuation. The assessee had also disclosed the transaction value of the assets as and when the actual purchases were effected. Wealth Tax authorities too had accepted the valuation. Thus, the AO could not have brought to tax the amounts that he ultimately did merely based upon the DVO's report in the absence of any material pointing to under valuation. **[Decided in favour of assessee]**

COMMISSIONER OF INCOME TAXIII V/S AMRAVATI DISTRICT CENTRAL COOPERATIVE BANK LTD (Bombay HC)

BRIEF: The questions to be answered are:

i) **Whether on the fact and in the circumstances of the case the learned ITAT was justified in holding that the assessee is entitled to deduction u/s 80P(2)(a) of an amount Rs.39,32,829/being commission derived from Cotton Hundi business even though such an activity is not carrying on the business of banking itself but an activity in addition to the activity of carrying on the business of banking?**

ii) **Whether the learned ITAT was justified in holding that the assessee is entitled to deduction u/s 80P(2)(a) of an amount Rs.43,75,229/- being commission on electricity bill even though such as activity was in addition to the carrying on the business of banking?**

OUR COMMENTS: In the above case, the **Hon'ble Bombay High Court** held that the facility of collection of bills provided by the bank is found to qualify as banking activity and the commission has been thus allowed to be deducted under Section 80P(2)(a) of the Act.
Also, held that the cheques issued by the State Government to the cotton growing farmers as price of cotton purchased are immediately honoured by the assessee and the State Government then reimburses the assessee after some time.

It is, therefore, obvious that the funds of the bank are used in the process and for such use the State Government is compensating it by paying the commission. Therefore, the said commission also qualifies for such deduction. **[Decided in favour of assessee]**

ITAT DECISIONS

INCOME TAX OFFICER, WARD 15(2), NEW DELHI V/S M/S RAJPUTANA STORES (BOMBAY) (P) LTD. (ITAT Delhi)

BRIEF: The **assessee has taken unsecured loan from a sister concern, on which it has paid interest @10% which works out to Rs.82,75,818/- for the year under consideration. The assessee had further advanced loan to another sister concern @ 10% and earned interest amounting to Rs.56,72,979/-. The A.O. held that the said transactions were sham and there was no justification regarding deriving any profit in the transaction. Thus, the A.O. disallowed the difference amount Rs.26,02,839/- and completed the assessment u/s 143(3) of the I.T. Act.**

OUR COMMENTS: In the above case, the **Hon'ble ITAT Delhi** held that loan transactions have been carried out through account payee cheques and the same has been duly recorded in the books of account. The receipt and the payment of interest has also been recorded in the books of account. The assessee is in the same business from the last and subsequent years, and no such disallowance has been made then. The Revenue has, also, not produced any documentary evidence establishing that the business of the assessee is not genuine and the transactions are sham. Rejection of the books of account and disallowance of expenses cannot be done whimsically without proper basis. **[Decided against Revenue]**

INCOME-TAX OFFICER V/S M/S BIHANI COMMERCIAL(ITAT Kolkata)

BRIEF: The assessee debited carriage inward expenses to transporters of Rs.3,34,08,822/- paid to six transport companies having goods carriages for the purpose of hiring towards carriages of goods. The A.O. is of the view that assessee is liable to deduct TDS on the payment made to these transport companies for debiting carriage inward expenses paid to transporters u/s. 194C of the Act and therefore disallowed the entire amount.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Kolkata held that** the assessee has debited carriage inward expenses paid to six transport contractors, who are transport companies in the carriage business for the purpose of hiring towards carriage of goods. Once the hiring is made, the contract exists, as to whether verbal or written. Once there is a verbal contract the provision of section 194C will apply following which the provisions of 40(a)(ia) shall definitely apply. **[Decided in favour of Revenue]**

THE DEPUTY COMMISSIONER OF INCOME TAX, CHENNAI V/s M/s. I.M. GEARS PVT. LTD. (ITAT Chennai)

BRIEF: The Assessing Officer while completing assessments disallowed agency commission payments made to non-resident agents as the assessee did not deduct TDS under section 195 of the Act. The Assessing Officer invoking provisions of section 40(a)(i) of the Act disallowed such payments made by the assessee to non-resident agents. The Assessing Officer was of the view that since the Board has withdrawn Circular No.786 dated 7.2.2000 which deals with payment of export commission to non-resident agents, the payments made by the assessee towards sales commission to non-resident agents is liable for TDS under section 195 of the Act.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Chennai** held that TDS is required to be deducted on all payments to non-residents if the said payments are liable for tax in India. In the instant case, the commission payments to the non-resident agents are not taxable in India as the services are rendered abroad and the agents have no Permanent Establishment in India. Therefore, there is no requirement to deduct TDS on these payments. **[Decided in favour of assessee]**

INCOME TAX OFFICER V/S M/S RELIANCE MARKETING PVT. LTD. (ITAT Delhi)

BRIEF: The ROI was filed on 29.9.2008 declaring income of Rs.28,989/-. AO initiated the assessment proceedings u/s. 147 of the I.T. Act, 1961, by issue of notice u/s. 148 on 30.3.2010 and the assessee was asked to file the return of income within 30 days. The notice was received back unserved. Further notices u/s. 142(1) dated 21.10.2010 fixing the case for 29.10.2010. On 29.10.2010 the compliance was made and Authorised Representative of the assessee appeared and stated that return filed on 29.9.2008 may be treated as filed, subsequently to the notice u/s. 148 of the Act, assessee has also filed various documentary proof before the AO. After considering the reply filed by the assessee and the documentary evidence supporting the claim of the assessee, the AO made the addition of Rs 15.10 Crores to the income return filed by the assessee as unexplained share capital and AO completed the assessment on 31.12.2010 u/s. 143(3)/147 of the I.T. Act, 1961.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Delhi** held that AO had not issued notice u/s. 143(2) of the I.T. Act which is mandatory. In completing the assessment u/s. 148 of the Act, compliance of the procedure laid down u/s. 142 and 143(2) is mandatory. As per record, there was no notice issued u/s. 143(2) of the I.T. Act which is very much essential for reassessment and it is a failure on the part of the AO for not complying with the procedure laid down in section 143(2) of the I.T. Act. If the notice is not issued to the assessee before completion of the assessment, then the reassessment is not sustainable in the eyes of law and deserves to be cancelled. **[Decided in favour of assessee]**

WEST BENGAL TAXES

VAT

DATES ON WHICH THE RELEVANT SECTIONS OF WEST BENGAL FINANCE ACT 2015 SHALL BE EFFECTIVE

The **Govt. of West Bengal vide Notification No 447-F.T.- dated 24th March, 2015** hereby provides the dates on which the relevant sections of the West Bengal Finance Act 2015 shall come into force:

DATE	RELEVANT SECTION OF WB FINANCE ACT 2015
24.03.2015	1
01.01.2015	6(1) and 6(2)
25.03.2015	7(3)(b) and 8(4)
01.04.2015	8(7)
02.11.2012	8(13)(a)(2A)
01.07.2015	5(3), 8(13)(a)(2B) and 8(13)(d)(2B)
01.04.2005	8(16)(a)
01.04.2015	remaining provisions of section 2, the provisions of section 3, section 4, the remaining provisions of section 5, the provisions of section 6, and the remaining provisions of section 8 of the said Act

AMENDMENTS IN THE WEST BENGAL SALES TAX (SETTLEMENT OF DISPUTE) ACT 1999 BY WB FINANCE ACT 2015

The **Govt. of West Bengal vide Trade Circular No. 01/2015 dated 27th March 2015** has made amendments for settlement of disputes related to tax, penalty or interest arising out of an assessment under any of the following Acts:

1.) The West Bengal Value Added Tax Act, 2003;
2.) The West Bengal Sales Tax Act, 1994;
3.) The Central Sales Tax Act, 1956;
4.) The Bengal Finance (Sales Tax) Act, 1941;
5.) The Bengal Raw Jute Taxation Act, 1941;
6.) The West Bengal Sales Tax Act, 1954; and
7.) The West Bengal Motor Spirit Sales Tax Act, 1974

The application for settlement is to be filed before the appropriate Senior Joint Commissioner in Form 1 of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999, in respect of any period ending on or before 31st March, 2010, for which an application for appeal or revision has been filed on or before 31st January, 2015 and which has not been finally heard and is still pending.

The dispute can be settled upon payment of a fraction of disputed tax as shown in the table below. The amount of arrear interest related to arrear tax in dispute and penalty in dispute, if any, will be waived fully.

Sl. No.	Dispute related to:	Amount to be paid for settlement:
1.	Arrear tax for non-furnishing/non-production of statutory Certificates / Declarations	100 % of remaining balance amount of arrear tax in dispute after adjusting Certificates/Declarations in possession of applicant, or the amount already paid towards such arrear, whichever is higher
2.	Arrear tax for disallowance of any claim of input tax credit	15 % of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher
3.	Any other arrear tax not covered by serial Nos. 1 and 2 above	55 % of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher
4.	Any arrear interest related to arrear tax in dispute	Nil
	Any arrear penalty related to assessment for the eligible period	Nil

The application in Form 1 is to be made in duplicate along with the documents mentioned therein, including the proof of payment.

Any application pending before the West Bengal Taxation Tribunal, High Court or Supreme Court can also be settled provided leave is sought from the Tribunal or respective Court.

The last date for filing application for settlement is the 31st July, 2015.

QUERY & REPLY

QUERY- INCOME TAX

A Pvt. Ltd. Co (X Pvt. Ltd. Co) issued 20000 shares in the year 2005 at nominal value Rs 10 per share. Today the market value of each share is Rs 100. The Company wants to buy-back 50% of its shares at the same value at which it was issued, i.e. Rs 10. Can the company proceed with the buy-back? Please advise, keeping in view the relevant provisions of the Income Tax Act.

Name and address withheld

REPLY

As per Section 56(2) (viia) of the Income Tax Act, 1961 where a firm or a company not being a company in which the public are substantially interested (i.e. a Pvt. Ltd Co, as in your case) receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested, for a consideration which is less than the aggregate FMV of the property (shares to be bought back, in your case) by an amount exceeding Rs 50000, the aggregate FMV of such property as exceeds such consideration shall be taxable in the hands of the recipient (X Pvt. Ltd. Co).

QUERY-SERVICE TAX

A CA Firm obtained ST Registration in March 2015 and paid the tax amount collected so far by net banking in March 2015 itself.
Now, when will the firm have to file ST Return and in relation to which month/quarter. Whether online filing of Return is mandatory? What are the other formalities in filing of ST Return? Please advise.

B K Agarwal
B. K. Agarwal & Co.

REPLY

1. The firm has to file ST return in relation to H2 2014-15.

2. There is no provision of filing offline ST return. So returns have to be filed manually.

3. 1 day Post the return uploaded date, please check the status which should change to "filed", generate the ST 3 pdf and store for future reference purpose.