23RD ISSUE

JULY 5TH - JULY 11TH

GST

CENTRAL EXCISE

SERVICE TAX

CUSTOMS

STATE TAXES

TAX CONNECT

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EDITORIAL

Friends,

On the GST front, it is expected that **the draft law on GST may come up for public comments in the monsoon session.** The Modi Government is fighting all odds to roll out GST on 1st April 2016.

In Income Tax, The government has notified **3-month compliance window till 30th September, 2015 for declaration of undisclosed foreign assets under the new black money law.** Once the compliance window closes, anyone found having undeclared overseas wealth would be required to pay 30 per cent tax, 90 per cent penalty and face criminal prosecution.

With a view on the dynamic environment in the Indian Taxation system, we are organizing a **4 hour workshop on taxation matters on Friday, 7th August 2015, 2 PM - 6 PM.** The workshop will cover important topics/issues of Goods & Service Tax [GST], Service Tax, Value Added Tax [VAT], Foreign Trade Policy [FTP] AND Income Tax Returns. It will be held in The Bengal Chamber of Commerce and Industry, Williamson Magor Hall. Among other speakers, **Sri Khalid Anwar, Additional Commissioner, West Bengal Commercial Taxes**, has also kindly agreed to speak on WB Commercial Taxes. The details of the entire program are available in the next page. You are requested to attend the same. There are limited seats so kindly let us know your registration details soon.

May we reiterate that we remain available for a discussion over mail or over a telecon.

Truly Yours

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

Vivek Jalan
FCA, CIDT (ICAI), B. Com

DUE DATE	COMPLIANCES FROM 5TH JULY, 2015 TO 11TH JULY, 2015	STATUTE
5th July, 2015	Deposit of TDS	Kerala VAT Act, 2003
5th July, 2015	Deposit of Tax	Rajasthan VAT Act, 2003
5th July, 2015	Issuance of TDS Certificate for TDS deducted in the month of May, 2015	Tamil Nadu VAT Act, 2006
6th July, 2015	Online Payment of Service Tax & Excise Duty for the month/quarter ended June, 2015	Service Tax: Finance Act, 1994 Excise Duty: Central Excise Act, 1944
7th July, 2015	Deposit of TDS/TCS	Income Tax Act, 1961
7th July, 2015	Deposit of WCT for the month ended June, 2015	Assam VAT Act, 2003 & Chhattisgarh VAT Act, 2003
10th July, 2015	Deposit of Sales Tax TDS	West Bengal VAT Act, 2003
10th July, 2015	Filing of ER-1, ER-2 & ER-6 Return for the month June, 2015	Central Excise Act, 1944

INDEX GUIDE

SEMINAR ON INDIRECT TAX AND DIRECT TAX

[GST, SERVICE TAX, VAT, FTP & INCOME TAX]

01.30 p.m. onwards, 7th August, 2015
The Bengal Chamber of Commerce and Industry
Williamson Magor Hall
Royal Exchange, 6, Netaji Subhas Road, Kolkata 700001

"TAX CONNECT" is organizing a Seminar on Indirect Tax & Direct Tax in the Bengal Chamber of Commerce and Industry from 01.30 p.m. onwards on 7th August, 2015.

The Seminar will cover important topics/issues of **Goods & Service Tax [GST], Service Tax, Value Added Tax [VAT], Foreign Trade Policy [FTP] AND Income Tax**. The programme schedule with names of speakers is enclosed for your kind reference.

We do hope that the programme will be relevant to you. You may please also nominate suitable representatives to attend the programme. For the purposes of registration, please email the enclosed Ready Reply Form, suitably filled in, to **p5.javaa@gmail.com.**

The overheads per participant are Rs.500/-.

Following is the Tentative Programme:

TIMING	EVENT	CONDUCTED BY
01.30 p.m. – 02.00 p.m.	**Registration**	
02.00 p.m. – 02.15 p.m.	**Welcome & Keynote Address**	**TAX CONNECT**
02.15 p.m. – 02.55 p.m.	**Technical Session I:** **Goods & Service Tax [GST]**	**Mr. T B Chatterjee,** Chairperson, Indirect Taxes Committee The Bengal Chamber of Commerce and Industry & Chief Corporate Officer, Legal and Corporate Affairs, DIC India Ltd
03.00 P.m. – 03.40 p.m.	**Technical Session II:** **Service Tax**	**Mr. Vivek Jalan,** FCA, CIDT [ICAI], Member, Indirect Taxes Committee, The Bengal Chamber of Commerce and Industry JAV & Associates, Chartered Accountants
03.45 p.m. – 04.25 p.m.	**Technical Session III:** **Value Added Tax [VAT]**	**Sri Khalid Anwar** Additional Commissioner, West Bengal Commercial Taxes
04.30 p.m. – 05.10 p.m.	**Technical Session IV:** **Income Tax Returns**	**Mr. Sanjay Bhattacharya, FCA**
05.15 p.m. – 05.55 p.m.	**Technical Session V:** **Foreign Trade Policy [FTP]**	**Mr. T B Chatterjee,** Chairperson, Indirect Taxes Committee The Bengal Chamber of Commerce and Industry & Chief Corporate Officer, Legal and Corporate Affairs, DIC India Ltd

Tea/Coffee

GOODS & SERVICE TAX

BUSINESS WORRIED AT 1% ADDITIONAL INTER-STATE TAX ON SUPPLY OF GOODS

An additional one per cent tax on inter-state supply of goods in the constitutional amendment Bill on a goods and services tax (GST) has left industry worried. It thinks the provision could add to supply-chain inefficiencies and defeat the very purpose of a national GST. Additional tax will remain non-creditable against the GST and will constitute additional revenues to producing states. The additional tax will require restructuring of businesses and supply chains. Market players say the measure should remain temporary and not extended beyond 2 years.

DECISION TO TAX PETRO PRODUCTS UNDER GST PUSHED 2-3 YEARS

Assuming the Government would meet its deadline of introducing GST from 2016-17, petroleum could draw tax under GST regime only from 2019-20 or 2020-21. States are wary of taxing petroleum under a GST because over half of their revenues come from taxes on petroleum. If petroleum products are subsumed within GST, producing states cannot get Central Sales Tax on inter-state movement. An integrated GST, to be levied on inter-state movement of goods, will give revenue to the consuming state, while CST gives it to the originating state.

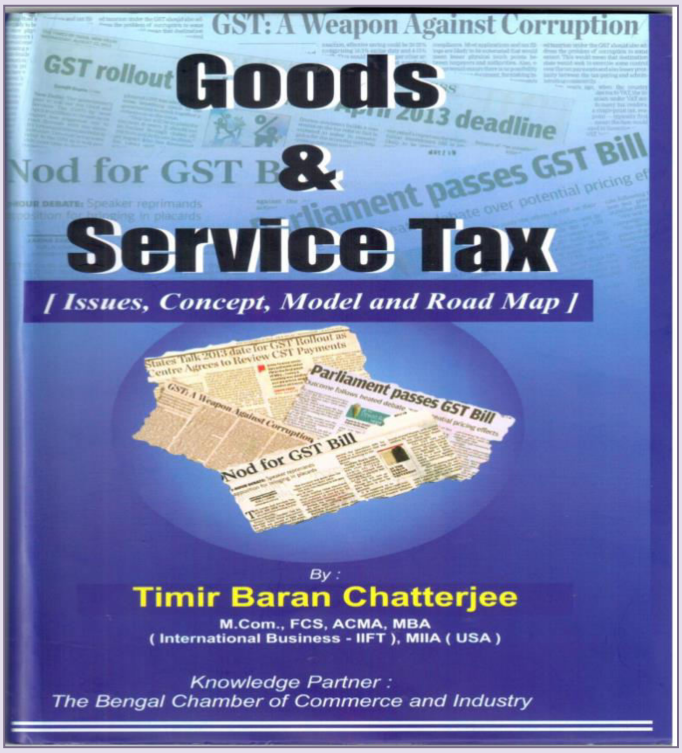
CONTROVERSIAL ISSUE OF STATES' DEMAND OF COMPENSATION FROM CENTRE FOR LOSS OF REVENUE DROPPED

States drop the controversial issue of compensation to them to make up for the cut in the central sales tax (CST). CST was one of the major roadblocks for GST, originally scheduled to come from April 1, 2010. Our Hon'ble Finance Minister Mr. Arun Jaitley has already assured states that the Centre would clear their CST compensation dues over a three-year period. CST is levied by the Centre on inter-state movement of goods, but collected by states. States are opposing inclusion of petroleum, alcohol and entry tax in GST.

HOW GOVERNMENT COULD MEET APRIL, 2016 DEADLINE ON GST?

There is still hope that the Goods and Services Tax will be rolled out by next April, despite it being referred to Select Committee of Rajya Sabha. But such a feat would require a favourable interplay of the schedules of the monsoon sessions of Parliament and 29 state legislatures. Half of these legislatures, or 15, need to ratify the Bill for it to become a law.

The Narendra Modi government, if it so wants, can advance the dates of the convening of the monsoon session of Parliament to early July, instead of the usual end-July or first week of August. An early July session could give the government ample time to ensure passage of the Bill and transfer it to State Legislative Assemblies.



Available in Book Corporation & all Law Book Stores

SERVICE TAX

COURT DECISIONS

M/S. VISRANTHI BUILDERS VS. CESTAT, THE COMMISSIONER OF CENTRAL EXCISE (MADRAS HIGH COURT)

BRIEF: Whether it is mandatory or any discretion is left with the authorities for imposing penalty equal to the amount of Service Tax u/s 76 and 80 of the Finance Act, 1994.

OUR COMMENTS: In the above case, the **Hon'ble Madras High Court** held that it is mandatory to impose penalty equal to the amount of Service Tax u/s 76 and 80 of the Finance Act, 1994 when there is a case of deliberate suppression of facts with a willful intention to evade the payment of Service Tax and the evasion have come to light for the investigation conducted by the officers. **When there is a deliberate suppression, the provision mandates imposition of penalty. Hence, there is no reason why the Authorities should depart from imposing such penalty as mandated by the provisions of the Act.** The judgement is given following the decision in the case of **Dhandayuthapani Canteen vs. CESTAT [Madras High Court] [Decided against assessee]**

M/S. SITAL INDIA LIMITED VS. COMMISSIONER OF CENTRAL EXCISE, MUMBAI-II [CESTAT MUMBAI]

BRIEF: No time limit is prescribed and hence no limitation is applicable for refund of accumulated CENVAT Credit under Rule 5 of CENVAT Credit Rules, 2004.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that no limitation is prescribed for refund of accumulated CENVAT Credit under Rule 5 of CENVAT Credit Rules, 2004 as the said rule provides for refund of accumulated CENVAT Credit due to reasons of export of service and being unable to be utilized by the assessee. Further, under the said rule, no time limit is prescribed and hence, no limitation is applicable. Thus, the ground of limitation is decided in favour of the assessee and it is held that the claim of refund is not hit by limitation. **[Decided in favour of assessee]**

KETAN MOTORS LIMITED VS. COMMISSIONER OF CENTRAL EXCISE, NAGPUR [CESTAT MUMBAI]

BRIEF: There is no reason to disallow CENVAT Credit on the documents pertaining to unregistered premises.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that where an assessee has been granted centralized registration on an application made for the same and the department has not disputed that the input services were received by the branch office, i.e. unregistered premises and further that they were utilized for providing output services, then there is no reason to disallow CENVAT Credit on the documents pertaining to branch office. **[Decided in favour of assessee]**

COMMISSIONER OF SERVICE TAX, MUMBAI-II VS. GEORG FISCHER PIPING SYSTEMS PRIVATE LIMITED [CESTAT MUMBAI]

BRIEF: Activity of procurement of orders from buyers in India for suppliers of goods situated abroad amounts to export of service if following conditions are satisfied:

- **The export is deemed to have taken place if the beneficiary is abroad; and**
- **Payment is received in foreign exchange in India.**

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Mumbai** held that where service provided by the agents of the assessee is limited to procurement of orders which are sent to the principal entity abroad and thereafter the role of the agents ends in as much they are nowhere connected with the actual sale of the goods by the entity abroad to the customers in India, then Rule 3(1)(iii)of the Export of Service Rules, 2005 comes into picture as the service concerned is Business Auxiliary Service and the export is deemed to have taken place if the beneficiary is abroad and the payment is received in foreign exchange in India. If these two conditions are being satisfied, the service is to be considered as export of service. However, in the given case, the agents, who filed a rebate claim of tax paid on input services, under Rule 5 of the Export of Service Rules, 2005 on the ground that the services rendered by them amounted to export of service, cannot claim the same for the reason that the beneficiary of the entire activity is an Indian consumer and hence service of the agents cannot be treated as export of services. **[Decided in favour of assessee]**

CENTRAL EXCISE

COURT DECISIONS

CCE, BANGALORE VS. M/S. VETCARE ORGANICS PRIVATE LIMITED [SUPREME COURT]

BRIEF: Even if the goods are different, use of brand name or trade name of third party disallows assessee to claim the benefit of exemption under Notification No. 175/86-CE dated 1st March, 1986 and Notification No. 1/93-CE dated 28th February, 1993.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that even if the goods are different, so long as brand name or trade name of some other Company is used, the benefit of exemption under Notification No. 175/86-CE dated 1st March, 1986 and Notification No. 1/93-CE dated 28th February, 1993 would not be available. Further, the permission if given by the third party to use the brand name shall not make assessee, owner of the brand name. It is thus, clear that the brand name belonging to any third party, which brand name is allowed to be used by the assessee, Explanation 8 to the Notification No. 175/86-CE dated 1st March, 1986 would clearly become applicable which defines the words "brand name" or "trade name". **[Decided against assessee]**

M/S. FORDER TECHNIK INDIA PRIVATE LIMITED VS. COMMISSIONER OF CENTRAL EXCISE, CHENNAI-IV [CESTAT CHENNAI]

BRIEF: Installation or erection of heavy storage racks at the premises of the client does not amount to manufacture and ceases to become movable goods. Hence, there is no liability to pay excise duty.

OUR COMMENTS: In the above case the **Hon'ble CESTAT Chennai** held that the assessee, although was principal manufacturer of manufactured rack components, having been embedded to earth upon welding to fulfill contractual obligation and such racks became inseparable without causing damage thereto when detachment is contemplated, that rules out the activity to be a manufacturing activity and the goods so attached to earth cease to become movable goods. Accordingly, there shall be no levy of excise duty on the racks in the circumstances of the case since ultimate object is to erect and install the goods manufactured and embedded to earth. This judgement is given in support of the decision of Tribunal in the case of Thyssenkrupp Industries India Pvt. Ltd. vs. CCE, Visakhapatnam. **[Decided in favour of assessee]**

TRICITY AUTOS VS. COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, CHANDIGARH-II [CESTAT NEW DELHI]

BRIEF: Assessee is entitled to take CENVAT Credit on free services provided to customers.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT New Delhi** held that where an authorized service station is providing service on behalf of the assessee and assessee is required to pay the cost of service along with service tax to the authorized service station who has provided service on behalf of the assessee to the owner of the vehicle, the service provided by authorized service station has become input service for the assessee and assessee is entitled to take CENVAT Credit. **[Decided in favour of assessee]**

M/S. PEBCO MOTORS LIMITED VS. COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX-JSR [CESTAT KOLKATA]

BRIEF: Any refund claim arises as a consequences to the application of the provisions of Finance Act, 1994 ought to be in accordance with the provisions prescribed for refund under the Central Excise Act, 1944 as applicable to service tax matters.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Kolkata** held that where there is no doubt that the refund claim arises out of applicability of the provisions of Finance Act, 1994 to the services rendered by the assessee, then such shall ought to be in accordance with the provisions prescribed for the refund under the Central Excise Act, 1944 as applicable to service tax matters by virtue of Section 83 of the Finance Act, 1994. The judgement is given in view of the observation of the **Hon'ble Supreme Court in the case of Mafatlal Industries. [Decided against the assessee]**

AGARWAL FOUNDRIES VS. COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, HYDERABAD-I [CESTAT BANGALORE]

BRIEF: The assessee is eligible for CENVAT Credit of duty paid on air-conditioner and furniture which are used within the factory.

OUR COMMENTS: In the above case the **Hon'ble CESTAT Bangalore** held that with reference to the Board Circular issued by the Board vide **Circular No. 943/4/2011-CX dated 29th April, 2011**, it was mentioned that ***'goods such as furniture and stationery used in an office within the factory are goods used in the factory and are used in relation to the manufacturing business and hence the credit of same is allowed.'*** Further, according to the definition of ***'input'***, inputs used in the factory ***'for any other purpose'***, the credit is admissible. In the given case, there is no denial of the fact that the furniture has been used within the factory and hence CENVAT Credit is available for the same. **[Decided in favour of assessee]**

CUSTOMS

COURT DECISIONS

SECRETARY (REVENUE) GOVERNMENT OF INDIA AND ANOTHER VS. DYESTUFFS MANUFACTURERS ASSOCIATION OF INDIA AND OTHERS, M/S HINDUSTAN ORGANIC CHEMICALS LTD AND OTHERS VS. SECRETARY (REVENUE) GOVERNMENT OF INDIA AND OTHERS [SUPREME COURT]

BRIEF: While carrying out the best judgement assessment, it is necessary for the Designated Authority to base its decision on the relevant considerations/materials and the assessee should cooperate in the inquiry or furnishing of the requisite materials.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that it is a case where the Designated Authority applied the provisions of Rule 6(8) of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 and determined the anti-dumping duty on the basis of "best judgment assessment". There is no dispute that in those cases where the assesssee does not cooperate in the inquiry or furnishes the requisite material, it is open to the Designated Authority to invoke Rule 6(8) and determine the normal value of the product on the basis of "best judgment assessment". This is so held in the case of **Designated Authority v. Haldor Topsoe [Supreme Court of India].** However, while carrying out the "best judgment assessment", it is necessary for the Designated Authority to base its decision on the relevant considerations/ material.

Customs, Excise and Gold (Control) Appellate Tribunal has found many loopholes in the exercise carried out by the Designated Authority which prompted the CEGAT not to accept the valuation of goods arrived at by the orders of the Designated Authority. **[Decided in favour of assessee]**

UNION OF INDIA & OTHERS VERSUS M/S PARAM INDUSTRIES LTD. & OTHERS [SUPREME COURT]

BRIEF: Though the notification may have been published on the date when the goods were cleared, if the goods were not offered for sale by the concerned Board, it was not justified and lawful on the part of the Department to claim the differential amount of duty on the basis of said notification.

OUR COMMENTS: In the above case, the **Hon'ble Supreme Court** held that for bringing the notification into force and make it effective, the following two conditions are mandatory:

- Notification should be duly published in the official gazette.
- It should be offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.

In the present case, admittedly, second condition was not satisfied. Therefore, it was not justified and lawful on the part of the Department to claim the differential amount of duty on the basis of said notification. The judgement is given following the decision in the case of **'Harla v. The State of Rajasthan' [Supreme Court of India] [Decided in favour of assessee]**

BHARAT TISSUES PRIVATE LIMITED VS. COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, BANGALORE-I [CESTAT BANGALORE]

BRIEF: Once extension for warehousing period is refused, the duty, interest and other liabilities automatically arise.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Bangalore** held that according to Section 72 of Customs Act, 1962, if any warehoused goods are not removed from a warehouse on the expiration of period during which such goods are permitted under Section 61 of the said Act to remain in the warehouse, the proper officer may demand duty and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods. In view of the specific provisions in Section 72 of the said Act, once extension of time sought for storing goods in the warehouse is refused, the duty and interest and other liabilities automatically arise. **[Decided against the assessee]**

INCOME TAX

NOTIFICATIONS & CIRCULARS

RULE 51A NOTIFIED BY THE CBDT TO PROHIBIT AN AUDITOR (CHARTERED ACCOUNTANT) TO HAVE BUSINESS RELATIONSHIP WITH THE CLIENT OTHER THAN THOSE SPECIFIED IN THE RULE

OUR COMMENTS: The **CBDT vide Notification No. 50/2015 dated 24th June 2015** hereby amended Income Tax Rules, 1962 **by inserting Rule 51A regarding nature of business relationship.** The term **"business relationship"** shall be construed as any transaction entered into for a commercial purpose, other than:

- commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 (38 of 1949) and the rules or the regulations made under those Acts;
- commercial transactions which are in the ordinary course of business of the company at arm's length price – like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

The said rule has been inserted to prohibit an Auditor (Chartered Accountant) to have business relationship with the client other than those specified in the rule.

NO DEDUCTION OF TAX ON ANY INCOME OF AN INVESTMENT FUND (OTHER THAN PGBP INCOME) RECEIVED BY ANY INVESTMENT FUND

OUR COMMENTS: The **CBDT vide Notification No. 51/2015 dated 24th June 2015** hereby notifies that no deduction of tax under Chapter XVII of Income Tax Act, 1961 shall be made on any income of an investment fund (other than those income chargeable under the head Profits and gains of business or profession) received by any investment fund as defined in Clause (a) of the Explanation 1 of Section 115UB of the said Act.

COURT DECISIONS

DCIT VS. VODAFONE ESSAR GUJARAT LIMITED [GUJARAT HIGH COURT]

BRIEF: Third proviso to Section 254(2A) of the Income Tax Act, 1961 cannot be interpreted to mean that extension of stay of demand should be denied beyond 365 days even when the assessee is not at fault. ITAT should make efforts to decide stay granted appeals expeditiously.

OUR COMMENTS: In the above case, the **Hon'ble Gujarat High Court** held that one cannot lose sight of the fact that there may be number of reasons due to which the learned Tribunal is not in a position to decide and dispose of the appeals within the maximum period of 365 days despite their best efforts. There cannot be a legislative intent to punish a person/ assessee though there is no fault of the assessee and/or appellant. ITAT should make efforts to decide stay granted appeals expeditiously.

CIT, BANGALORE VS. AVENUE SUPER CHITS PRIVATE LIMITED [KARNATAKA HIGH COURT]

BRIEF: The chit dividend paid by the assessee to its customers would not amount to interest u/s 2(28A) of the Income Tax Act, 1961 and hence no liability to deduct TDS u/s 194(A) of the said Act before such dividend is paid to its subscribers of the chit.

OUR COMMENTS: In the above case, the **Hon'ble Karnataka High Court** held that the **Hon'ble Delhi High Court** had an occasion to consider the same substantial question of law in the case of **CIT vs. Sahib Chits (Delhi) Private Limited** wherein after setting out the statutory provisions namely, Section 2(28A), the provisions of the Interest Act, 1974 and noticing various judgments held, in the first place the amount paid by way of dividend cannot be treated as interest. Further, Section 194(A) of the Income Tax Act has no application to such dividends and therefore it is held that there is no obligation on the part of the assessee to make any deductions under Section 194(A) of the said Act before such dividend is paid to its subscribers of the chit.

3-MONTHS COMPLIANCE WINDOW FOR DECLARING BLACK MONEY ABROAD

The government has notified 3-month compliance window till 30th September, 2015 for declaration of undisclosed foreign assets under the new black money law. Once the compliance window closes, anyone found having undeclared overseas wealth would be required to pay 30 per cent tax, 90 per cent penalty and face criminal prosecution.

DCIT VS. SHAM SUNDER SHARMA [ITAT CHANDIGARH]

BRIEF: With reference to Section 250 of the Income Tax Act, 1961, orders of the ITAT are binding on the lower authorities and should be followed unreservedly. Blatant failure to do so could attract contempt of court proceedings.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Chandigarh** held that it is a clear case of showing disrespect to the order of the Tribunal. Therefore, contempt proceedings could have been initiated against the CIT (A) for blatantly disobeying the order of the Tribunal. The **Hon'ble Madhya Pradesh High Court in Agrawal Warehousing & Leasing Ltd. vs. CIT** held that the CIT (A) cannot refuse to follow the order of the Appellate **Tribunal. The CIT (A) is a quasi – judicial authority and is subordinate** in judicial hierarchy to the Tribunal. The orders passed by the Tribunal are binding on all the revenue authorities functioning under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities.

DCIT VS. JYOTI LIMITED [ITAT AHMEDABAD]

BRIEF: With reference to Section 43B(e) of the Income Tax Act, 1961, conversion of outstanding interest into a loan does not constitute "actual payment" of the interest so as to qualify for deduction.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Ahmedabad** held that on perusing Section 43B(e) of the Income Tax Act, 1961, it is seen that interest on any loan or advance from a schedule bank, in accordance with terms and conditions of the agreement governing such loans or advance, would be allowed as deduction in the previous year in which sum is actually paid by the assessee.

CIT VS. MAHAGUN TECHNOLOGIES PRIVATE LIMITED [ITAT DELHI]

BRIEF: Section 269SS of the Income Tax Act, 1961 does not apply to non-monetary book entry transactions of loans and advances. Thus penalty u/s 271D shall not apply to such transactions.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Delhi** held that Section 269SS indicates that it applies to a transaction where a deposit or a loan is accepted by an assessee, otherwise than by an account payee cheque or an account payee draft. The ambit of the Section is clearly restricted to transaction involving acceptance of money and not intended to affect cases where a debit or a liability arises on account of book entries.

STATE TAXES

DELHI

EXTENSION OF DATE OF SUBMISSION OF FORM DP-1 ELECTRONICALLY TO 31ST AUGUST, 2015

OUR COMMENTS: The Department of Trade & Taxes, Government of National Capital Territory of Delhi vide Notification No. F.3(352)Policy/VAT/2013/346-357 dated 30th June, 2015 hereby made a partial modification in **Notification No. F.3(352)/Policy/VAT/2013/936-47 dated 31st March, 2015 regarding submission of information online in Form DP-1** and notify that the Form DP-1 shall be submitted online by all the dealers latest by **31st August, 2015.** Rest of the contents of the above said Notifications shall remain the same.

REGISTRATION OF E-COMMERCE DEALERS

OUR COMMENTS: The Department of Trade & Taxes, Government of National Capital Territory of Delhi vide Notification No. F.3(515)Policy/VAT/2015/330-341 dated 26th June, 2015 hereby prescribes a return to provide details of dealers located in Delhi, supplying goods either to customers of Delhi or outside Delhi and details of dealers located outside Delhi, supplying goods to customers of Delhi, for the persons engaged in providing facility of electronic shopping (commonly known as e-commerce) through their web-portals. The said return is subject to certain conditions as specified in the said Notification.

HIMACHAL PRADESH

PROPOSED AMENDMENTS IN SCHEDULE 'A' AND SCHEDULE 'B'

OUR COMMENTS: The Excise & Taxation Department, Government of Himachal Pradesh vide Notification No. EXN-F(10)-20/2014-Loose dated 24th June, 2015 hereby proposes to make following amendments:

- In **Schedule 'A'**, in Part-II-'A', after Item No. 37 and 66, the following items shall be respectively inserted, namely:
  - **37-A Fabrication of body of trucks and buses**
  - **66-A LED Bulbs**
- In **Schedule 'B'**, after Item No. 18, the following item shall be inserted, namely:

- 18-A Energy Efficient Chullahs certified by the Energy & Resource Institute (TERI) or approved by the Ministry of New & Renewable Energy (MNRE)

ASSAM

INTRODUCTION OF ASSAM HEALTH INFRASTRUCTURE AND SERVICES DEVELOPMENT FUND RULES, 2015

OUR COMMENTS: **The Finance (Taxation) Department, Government of Assam vide Notification No. FTX.32/2015/17 dated 23rd June, 2015** hereby introduced Assam Health Infrastructure and Services Development Fund Rules, 2015 in order to levy a cess on sales of certain goods or classes of goods for the purpose of creating, developing, maintaining or improving health infrastructure and services in Assam.

DATE OF EFFECT OF ASSAM HEALTH INFRASTRUCTURE AND SERVICE DEVELOPMENT FUND ACT, 2009 AND THE ASSAM HEALTH INFRASTRUCTURE AND SERVICES DEVELOPMENT FUND (AMENDMENT) ORDINANCE, 2015

OUR COMMENTS: **The Finance (Taxation) Department, Government of Assam vide Notification No. FTX.32/2015/18 dated 23rd June, 2015** hereby appointed **1st July, 2015** as the date on which the Assam Health Infrastructure and Services Development Fund Act, 2009 and the Assam Health Infrastructure and Services Development Fund (Amendment) Ordinance, 2015 shall come into force.

JHARKHAND

INTRODUCTION OF KARSAMADHANA SCHEME, 2015

OUR COMMENTS: **The Commercial Taxes Department, Government of Jharkhand vide Notification No. G.O. No. 2262 dated 26th June, 2015 hereby accords approval to the scheme called Karasamadhana Scheme, 2015.** It grants partial waiver of arrears of penalty and interest payable by a dealer under the adopted Bihar Finance Act, 1981/JST and the Central Sales Tax Act,1956 relating to the assessment years upto 2005-06 subject to certain conditions and procedure as specified in the said Notification.

KARNATAKA

EXTENSION OF REVISION OPTION UNDER E-UPASS MODULE FOR THE TAX PERIODS MAY, 2014 TO DECEMBER, 2014 ENABLED FOR ALL TARGETED DEALERS TILL 31ST JULY, 2015 - CERTAIN INSTRUCTIONS

OUR COMMENTS: **The Office of Commissioner of Commercial Taxes, Government of Karnataka vide Circular No. 04/2015-16 dated 27th June, 2015** hereby **extended the date of 'Revision Option' under e-UPaSS Module for the tax periods May, 2014 to December, 2014 enabled for all targeted dealers till 31st July, 2015** and made following additions to make ITC Matching Module more dealer friendly:

- "Sales Invoices of Your Seller" — using this option, the purchasing dealer can view the details of sales invoice as uploaded by the corresponding selling dealer.
- Tolerance of Rs. 1/- after rounding off the decimals under Net value and tax value column, so as to minimize the mismatches between seller and buyer data.
- In case where the dealer has uploaded the Invoice No. prefixed with "0" and the other dealer has uploaded the Invoice No. without prefixing "0", such invoices are treated as matched and listed under "Accepted" category.
- If the purchasing dealer has uploaded the Net value/ Tax value amount less than the corresponding net value and tax value amounts, as uploaded by the selling dealer, such invoices are treated as matched and listed under "Accepted" category.

In addition to the above features, the following updates have also been added and enabled under Electronic Uploading of Purchase and Sales Statements (e-UPaSS):

- To upload the details of Port Name and Port Code under Export Sales Format.
- To upload Credit Notes/ Debit Notes with Net value as "0" and the applicable tax value under local/ interstate sales and purchases.
- To enter tax value payable on URD local purchases under "URD Purchases lump sum entry" so as to match with the corresponding values between the e-Return and e-UPaSS.