26TH ISSUE

JULY 26TH - AUGUST 1ST

GST

CENTRAL EXCISE

SERVICE TAX

CUSTOMS

STATE TAXES

TAX CONNECT

JAV & ASSOCIATES

-Chartered Accountants

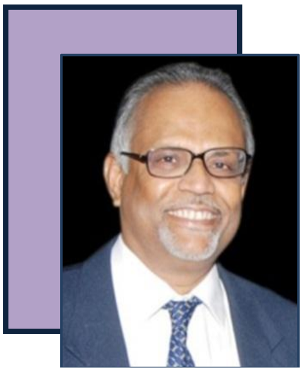
Head Office:
1, Old Court House Corner,
"Tobacco House" 1st Floor,
Room No.-13 (North), Kolkata-700001,
West Bengal

Branch Office:
Quarter No.-3/174, Gujarat Refinery Township
Jawaharnagar, Vadodara-391320,
Gujarat

Contact: +919331042424; +919831594980; +918697575185; +913322625203

e-mail: tb.chatterjee@dic.co.in; tb.chatterjee@yahoo.co.in; cavivekjalan@gmail.com; vivek.jalan@icai.org

EDITORIAL



Friends,

More than 200 crores of exchequer funds were wasted due to non-functioning of the parliament for one week. As expected, the opposition parties did not let the Parliament function in the first week of the monsoon session over a demand of resignation of BJP leaders. **Hence no discussion could take place on the Constitution Amendment bill for GST.** We have to wait and watch if some good sense prevails in the second week starting from Monday.

The guidelines for detailed manual scrutiny of service tax returns in respect of assessees whose total tax paid for the FY 2014-15 is below Rs. 50 Lakhs, **becomes applicable from 1st August.** In the same vein as Service Tax, The CBEC has also issued Circular No. 1004/11/2015-CX dated 21st July, 2015, under Central Excise laying down the guidelines for detailed mandatory scrutiny of Central Excise Returns. **It is now imperative for small assesses also to conduct a self audit before the department conducts a scrutiny.**

In a judgement which may affect Old C- Form cases in WB, **The Hon'ble High Court at Calcutta has held in the matter of M/s Kejriwal Pipes Fittings and Valves & Anr Vs Sales Tax Officer,** that a dealer or a person can issue C-Forms only after conclusion of sale. Dealers should take note of this judgement.

The details of our **Workshop on Indirect & Direct Taxes to be held on 7th August 2015,** are penned in the next page. Do feel free to contact us in this regard.

May we reiterate that we remain available for a discussion over mail or over a telecon 24 X 7.

Truly Yours

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

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

DUE DATE	COMPLIANCES FROM 26TH JULY, 2015 TO 1ST AUGUST, 2015	STATUTE
30th July, 2015	VAT payment for June, 2015	Andhra Pradesh VAT Act, Chattisgarh VAT Act, Madhya Pradesh VAT Act, Goa Vat Act
30th July, 2015	VAT return for quarter ending June, 2015	Andhra Pradesh VAT Act, Chattisgarh VAT Act, Haryana VAT Act, Madhya Pradesh VAT Act, Punjab VAT Act, Sikkim VAT Act, Goa VAT Act
30th July, 2015	Quarterly TDS & TCS certificate for the quarter ending June 30, 2015	Income Tax Act
31th July, 2015	Quarterly return of non-deduction of TDS by a banking company from interest on time deposit in respect of the quarter ending June 30, 2015	Income Tax Act
31th July, 2015	VAT return for quarter ending June, 2015	WB VAT Act, Bihar VAT Act,
31th July, 2015	VAT Payment for June 2015	WB VAT Act

INDEX GUIDE

WORKSHOP 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 Workshop on Indirect Tax & Direct Tax in the Bengal Chamber of Commerce and Industry from 01.30 p.m. onwards on 7th August, 2015.

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.** The programme schedule with names of speakers is enclosed for your kind reference.

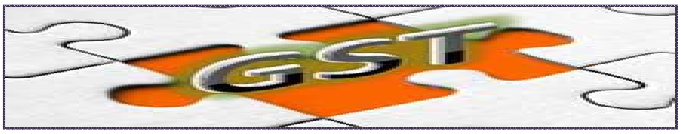
We do hope that the programme will be relevant to you. You may please also nominate suitable representatives to attend the programme. For the purposes of registration, please email the enclosed Ready Reply Form, suitably filled in, to p5.javaa@gmail.com**.**

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: Income Tax Returns**	**Mr. Sanjay Bhattacharya, FCA**
04.30 p.m. – 05.10 p.m.	**Technical Session IV: 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**
05.15 p.m. – 05.55 p.m.	**Technical Session V: Value Added Tax [VAT]**	**Sri Khalid Anwar Joint Commissioner, West Bengal Commercial Taxes**

Tea/Coffee



'PLACE OF SUPPLY' RULES FOR E-COMMERCE UNDER GST ON ANVIL

After Parliament approves the GST Constitution Amendment Bill, model legislations prepared by CBEC will be put up for comments from stakeholders & the three legislations -- Central GST (CGST), State GST (SGST) and integrated GST (IGST) -- will have to be approved by the respective legislatures.

The Revenue Department, as a part of GST introduction, is likely to prepare 'Place of Supply' rules covering taxation of e-commerce.

As Goods and Service Tax will be destination based (i.e. levied at point of delivery), these rules will help in determining the location of supply of goods or services (whether the supply is intra-state or inter-state).

The CBEC will be drafting the rules which will take into account sales through E-Commerce and after finalization of draft rules, CBEC will invite comments from industry.

With an estimated **$ 5 Billion E-Commerce Market** in India, the online shopping in India is expected to expand at a massive rate. Thus the 'Place of supply' rules have a significant role to play facilitating the effective regulation of the taxability of e-commerce transactions.

DUAL GST TO BE ROLLED OUT IN 2016, POINT ORIGIN BASED TAX REMAINS LEVIABLE ON INTER STATE SALE

A CBEC official has said that there will be no rethink on proposed 1% point origin based additional tax to be levied on inter-state sale.

India Inc has been opposed to the centre's plan to introduce the additional 1% Point origin based tax for it being inconsistent with the destination based dual GST system proposed.

They have also contended that the introduction of 1% Point origin based additional tax **would have a cascading effect & could erode margins for industry**.

The centre has been keen on this levy for it would **help placate the big manufacturing states like Gujarat &Maharashtra in support of GST implementation in the country.**

Mr. S. Madhavan, Co-chairman of FICCI's Task Force on GST, said that the GST rates to be decided in the coming days should be as moderate as possible.

CENTRE LIKELY TO AGREE ON FIVE YEARS' FULL COMPENSATION

The Government has given indications of accepting the Rajya Sabha Select Panel's recommendation on full compensation to states for 5 years after GST being implemented & the panel's report is expected to come on Wednesday. The full compensation of 5 years may not pose a problem as the loss is expected to discontinue after 2 years from the implementation of GST.

The Constitution Amendment Bill for the introduction of GST prescribes a five-year compensation formula with 100 % for the first three years, 75 % for the 4th year and 50 % for the 5th. However, in line with the recommendations of Select Panel, states are seeking 100% compensation for 5 years.

SERVICE TAX

COURT DECISIONS

CMGRP INDIA PVT. LTD VS. COMMISSIONER OF SERVICE TAX [CESTAT BANGALORE]

BRIEF: Exemption of value of goods & materials sold during the course of providing service cannot be denied if documentary evidence of such sale is available.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Bangalore** held that scrutiny of sales invoices revealed that appellants had recovered cost of certain materials used during the course of provision of service. Appellants are engaged in providing service of sale of space for advertisement and after the advertisement is published, they submit a copy of the relevant materials and the advertisement copy and they also buy the magazines and provide it to the customers at actual cost. This is not actually a service but it is actually recovery of cost of materials from the customers. If the cost of material is shown separately in the invoice and the amount is worked out on that basis, appellant's claim for benefit of Notification No. 12/2003-S.T., dated 20-6-2003 (which allows exemption on sale of goods & materials in the course of providing service) is already proved. **[Decided in favour of assessee]**

M/S RADHE RESIDENCY VS. COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, SURAT [CESTAT AHMEDABAD]

BRIEF: Penalty u/s 78 of Finance Act, 1994 would not be imposed if the pending service tax amount & interest (if any) is paid soon after being detected in audit & before issuance of show cause notice to assessee.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT Ahmedabad** held that differential service tax amount was paid by the appellant before the date of visit of audit officers, **except for the interest amount**, which was **paid by the appellant soon after the detection during audit**. Therefore, the **appellant had no intention to evade payment** and hence **penalty u/s 78 of Finance Act, 1994 is not imposable**. **[Decided in favour of assessee]**

M/S STEEL STRIPS WHEELS LTD VS C.C.E. CHANDIGARH [CESTAT NEW DELHI]

BRIEF: Financial Service of private placement of shares for raising finance required for the business of manufacture is an input service and credit on the service is to be allowed.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT New Delhi** held that contention of the revenue that financial services for private placement of shares rendered to the appellant for the purpose of raising capital is not related to manufacture directly or indirectly cannot be accepted. The definition of "Input service" is not restricted being limited to services directly related to manufacturing activity, rather it has a wide ambit & covers services related to business activities of manufacture & the appellant raised capital by private placement of shares, for the purpose of implementing the new Automotive Wheel Line Project in their factory. Hence, the impugned order is set aside with consequential relief to the appellant & the appeal is allowed. **[Decided in favour of assessee]**

IFB INDUSTRIES LTD VS. COMMISSIONER OF EX., CHANDIGARH [CESTAT NEW DELHI]

BRIEF: When one of senior officer of the department is dropping the demand by adopting a particular interpretation of provision of law, the assessee cannot be held guilty of adopting the same interpretation which is in his favour and availing the credit.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT New Delhi** held that the fact that, Additional Commissioner has himself interpreted the provisions of Rule 6(3) (c) in favour of the assessee, is indicative of the fact that said provisions are capable of two interpretations & held that 20% restriction on availment of Cenvat credit under Rule 6(3)(c) of Cenvat Credit Rules, 2004 is not applicable to the appellants availing credit of Service Tax in respect of sale of services. Appeal can be disposed of on the point of limitation itself inasmuch as the show cause notice was issued on 9th May, 2005 for the period December, 2003 to March, 2006. In the absence of any other evidence to show that the appellant have availed the full credit with mala fide intention so as to justify the invocation of longer limitation period, the appeal is accepted. [**Decided in favour of assessee**]

MODERN INSULATORS LTD VS COMMISSIONER OF C. EX., JAIPUR-II [CESTAT NEW DELHI]

BRIEF: Cenvat Credit on service tax paid in respect of insurance premium on goods-in-transit cannot be denied as insurance cover is inseparable from risk covered by it & claim of credit on such premium is distinct than that on transport service.

OUR COMMENTS: In the above case, the **Hon'ble CESTAT New Delhi** held that the contention of department that, if the goods covered by insurance is meant for delivery at buyer's destination, the Cenvat credit on the Service Tax paid in respect of such insurance is not admissible in law, runs counter to the **Rule 2 of Cenvat Credit Rules, 2004** as it is the coverage of risk and whether it is attributable to goods -in- transit is in question, but not the Service Tax paid on transport of such goods. Transport service and insurance on goods being distinct, the claim of Cenvat credit is also distinct & hence, the appeal is allowed. [**Decided in favour of assessee**]

CENTRAL EXCISE

NOTIFICATIONS & CIRCULARS

INSTRUCTIONS REGARDING DETAILED SCRUTINY OF CENTRAL EXCISE RETURNS

OUR COMMENTS: The **CBEC** vide **Circular No. 1004/11/2015-CX dated 21st July, 2015,** in exercise of powers conferred under **Rule 12(3) of Central Excise Rules, 2002,** has laid down the following guidelines for **detailed scrutiny of Central Excise Returns:**

- Detailed Scrutiny of a **minimum of 2%** & **maximum of 5%** of total Central Excise Returns received in a month should be done by proper field officers as per the established procedure.
- Assessees should be selected by Commissionerates for detailed scrutiny based on Risk score and procedure for using it, as forwarded by DG (Audit) vide letter F. No. 381/20/2015 dated 18.05.2015. Chief Commissioners and Commissioners can also manually select assessees using criteria as deemed fit in addition to aforesaid list. After selection, month wise scrutiny plan (range wise) should be laid down by the Commissionerate headquarters & conveyed to the range & complied with.
- Assessee selected for audit in a financial year shall not be selected for detailed scrutiny & if, the return of an assessee has been selected for detailed scrutiny, such return will not be selected again for next 12 months.
- Once an assessee is selected, the most recent return filed by him/her should be used for detailed scrutiny & during the course of scrutiny by proper field officer, assessee's documents & records (if required) may be verified by such officer.
- In composite ranges consisting of both Central Excise & Service Tax assessees, total no of returns to be taken up for detailed scrutiny shall be same as Para (1) above & ratio of Central Excise & Service Tax returns to be selected will be the ratio of no of registered Central Excise & Service Tax assessees (for detailed scrutiny of service tax returns Board's Circular No. 185/4/2015-service Tax dated 30.06.2015 may be referred.
- On difficulty in accessing the returns on ACES, DG (systems) is to be contacted/appraised by concerned chief commissioner/ commissioner & if issue persists for a long time, same should be informed to the board. In the interim, manual scrutiny should be done using printouts of returns taken from ACES.
- Past circulars on detailed scrutiny in conflict with above instructions shall stand rescinded to the extent of the conflict.

AMENDMENT IN NOTIFICATION NO. 12/2012-CENTRAL EXCISE DATED 17TH MARCH, 2012,EXTRAORDINARY PART II, SECTION 3 SUB-SECTION (I) VIDE NO. 163(E) DATED 17TH MARCH, 2012

OUR COMMENTS: The Central Government vide Notification No.39/2015-Central Excise has further amended the No. 12/2012-Central Excise, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 163(E), dated the 17th March, 2012, in the following manner:

- Under the heading 'conditions', after the entries in Condition No. 16, following explanation to be inserted namely-

  Explanation: For the purposes of this condition, appropriate duty or appropriate additional duty includes NIL or Concessional Duty, whether or not read with any relevant exemption notification, for the time being in force.

- Under heading 'conditions', after the proviso in Condition No. 20, following Explanation is to inserted:

  Explanation: For the purposes of this condition, appropriate duty or appropriate additional duty includes NIL or Concessional Duty, whether or not read with any relevant exemption notification, for the time being in force.

- Under heading "Conditions", in Condition No.25:

  i) The word & figures **'Section 66'** is to be **substituted by** words, figures & letter **'Section 66B'**.
  ii) After entries, following Explanation is to be inserted:

  Explanation: For the purposes of this condition appropriate duty or additional duty or service tax includes Nil duty or Nil Service Tax or Concessional Duty or Service Tax, whether or not read with any relevant exemption notification for the time being in force.

- Under heading "Conditions", in Condition No. 52A:

  i) The word & figures **'Section 66'** is to be **substituted by** words, figures & letter **'Section 66B'**.
  ii) After entries, following Explanation is to be inserted:

  Explanation: For the purposes of this condition appropriate duty or additional duty or service tax includes Nil duty or Nil Service Tax or Concessional Duty or Service Tax, whether or not read with any relevant exemption notification for the time being in force.

COURT DECISIONS

BARODIA PLASTICS PVT. LTD. VS COMMISSIONER OF CENTRAL EXCISE [PUNJAB AND HARYANA HIGH COURT]

BRIEF: **The inability to prove that insurance claim does not include Excise Duty cannot form the basis for dismissing the appeal for remission of Excise Duty in the event of loss of goods by fire.**

OUR COMMENTS: In the above case, the **Hon'ble Punjab And Haryana High Court** held that the judgment of tribunal to prove that insurance claim includes Excise Duty is neither logical nor founded in law as insurance companies do not provide insurance against payment of taxes much less payment of Excise Duty. The appellant has placed before Tribunal the letter issued by the insurance company, and has placed relevant documents before the court. Hence, it is appropriate to allow the appeal, set aside order passed by Tribunal & remit the matter to Tribunal for adjudication afresh. **[Decided in favour of assessee]**

RANJAN POLYESTERS LTD VS. UNION OF INDIA [RAJASTHAN HIGH COURT]

BRIEF: **The Tribunal should examine the cause given for recalling order given by the Tribunal and not the other issues which are irrelevant for examining the application for recalling the earlier order.**

OUR COMMENTS: In the above case, the **Hon'ble Rajasthan High Court** held that the rejection of the application for recalling the order of Tribunal dated 26th June, 2013 was incorrect as Tribunal did not examine sufficiency of the cause extended for not attending the Court proceedings by representative of the appellant company, who was unable to attend the same due to his ailment & surgery (appearing from perusal of the averments in the application for recalling the order dated 26.06.2013). The Tribunal rejected the aforesaid application only for the reason that appeal was pending from last few years, without examining the correctness of the cause given. Hence, the appeal deserves acceptance. **[Decided in favour of assessee]**

C.C.E .VS M/S DJ SANSTHAN [ALLAHABAD HIGH COURT]

BRIEF: **If there is any wilful misstatement or suppression of facts or contravention of any of the provisions of the Act or Rules made there under with intention to evade payment of duty, extended period of limitation of 5 years may be invoked u/s 11A (1) of the Act.**

OUR COMMENTS: In the above case the **Hon'ble Allahabad High Court** held that the goods in question were excisable goods & hence, removal goods without payment of duty was in contravention of provisions & rules applicable as there were clear findings of deliberate suppression of fact, clandestine removal of goods and evasion of central excise duty and that, the extended period of limitation under proviso to section 11A (1) of the Act was lawfully invoked. Thus, the assessee is liable to interest & penalty as per law. [**Decided against the assessee**]

CUSTOMS

NOTIFICATIONS & CIRCULARS

EXEMPTION OF CUT & POLISHED DIAMONDS IMPORTED FOR CERTIFICATION OR GRADING & RE-EXPORT

OUR COMMENTS: The central government vide Notification No. 40/2015-Customs dated 21st July, 2015 in exercise of the powers conferred u/s 25(1) of the Customs Act, 1962 (52 of 1962). , has exempted Cut & Polished Diamonds (falling under chapter 71 of 1st Schedule to Customs Tariff Act, 1975 (51 of 1975) when imported (for grading or certification and re-export out of India) by the laboratories and agencies notified in the Foreign Trade Policy and mentioned in the Table below, from the whole of the duty of customs leviable thereon which is specified in the said First Schedule, if the following conditions are satisfied:

Name of Laboratories/Agencies

1. **Gemological Institute of America (GIA),** Mumbai, Maharashtra, India
2. **Indian Diamond Institute, Surat** , Gujarat, India
3. **International Institute of Diamond Grading & Research India Pvt. Ltd., Surat**, Gujarat, India

Conditions:

- Such laboratories and agencies will furnish a general bond to the satisfaction of the Assistant Commissioner/Deputy Commissioner (Customs) at the port of import, undertaking to account for the diamonds, to follow the specified procedure in paragraph 4.75 of the Handbook of Procedures and to re-export diamonds within the period mentioned in the said paragraph of the same.;

- Import will be allowed under Bill of Entry having detailed description of each piece of Diamonds.

- The bill of entry should carry the endorsement "only for certification and grading".

- The said laboratories/agencies will allot a 'unique control number' for identification, maintaining separate accounts for diamonds which are taken in.

- After gradingor certification, Diamonds will be re-exported under a shipping bill containing detailed description mentioned at the time of import.

- Cross reference of bill of entry shall be endorsed in the shipping bill.

- The said laboratories/agencies shall submit a certificate, alongwith the shipping bill effecting that re-exported Diamonds are same as those imported.

- As per procedures & guidelines given by RBI, the laboratories/agencies shall obtain Guaranteed Remittance (GR) waiver regarding import & export & realize foreign exchange for service charges.

- For audit, Customs Officers may visit the offices of said laboratory/agencies.

- Diamonds are to be re-exported within 3 months from the date of their import for certification /grading & re-export will only be allowed from the port of import.

- The said laboratories/agencies shall submit a quarterly statement stating the Bill of Entry No., Date, Diamond & Export details etc by 25th of the month following the particular quarter.

INCOME TAX

COURT DECISIONS

RICH UDYOG NETWORK LTD. VS. CHIEF COMMISSIONER OF INCOME TAX & OTHERS [ALLAHABAD HIGH COURT]

BRIEF: As per CBDT Circular, where cash amounting to more than Rs 10 lacs is found at the premises during the survey u/s 133A and if further incriminating evidence comes forward during the course of survey, the Director of Income Tax (Investigation) having jurisdiction over the survey should be intimated by the Dept. to examine the facts for taking recourse to Section 132(1) and converting the survey into search.

OUR COMMENTS: In the above case, the **Hon'ble Allahabad High Court** held that the contention of the petitioner that the mere fact that cash was found could have been utilized in assessment proceedings & same cannot be ground to convert the survey into a search operation u/s 132, cannot be accepted. Since no plausible reply came from the director about the source of the cash & entries showing huge cash transactions with bogus entries to various parties, it was implied that petitioner would not make the books of accounts or documents available (even if summons u/s 131 or notice u/s 142 was issued). Hence, pursuant to the survey and the undisclosed cash and unexplained entries found, steps to convert the survey into a search was rightly taken. **[Decided against the assessee]**

ITO (TDS), MUMBAI VS M DHARAMDAS & COMPANY [ITAT MUMBAI]

BRIEF: Terminal Handling charges, container freight station charges & other statutory charges paid by assessee on behalf of a person & reimbursed later on, (where the other person availed the goods/services) does not come under the definition of "Rent" & hence no TDS is to be deducted u/s 194I. Forklift/crane charges relate to payment for utilization of service provided by the crane/forklift operators and TDS is to be deducted from such payment u/s 194C.

OUR COMMENTS: In the above case, the **Hon'ble ITAT Mumbai** held that Terminal Handling Charges was paid by assessee to foreign shipping lines on behalf of the client & claimed reimbursements for the same (i.e. not an expenditure of the assessee) & such charges relate to handling of material during unloading of cargo. Hence, they are not considered as "Rent" and were not tax deductible u/s 194I. The container freight station charges & Bombay Port Trust Charges (statutory in nature) were paid by assessee as an intermediary (reimbursed later on) as the services for handling & clearing was utilized by the client and hence, not tax deductible in the hands of assessee. Further, the Hon'ble ITAT also held that, the crane/forklift charges was in the nature of payment for utilization of services of crane operators for unloading of goods because the assessee had not taken cranes/forklifts on rent. Hence, assessee has rightly deducted TDS u/s 194C instead of deducting TDS u/s 194I. **[Decided in favour of assessee]**

PRINCIPAL COMMISSIONER OF INCOME TAX-2 VS. GUJARAT GAS FINANCIAL SERVICES LIMITED [GUJARAT HIGH COURT]

BRIEF: As per CBDT Circular dated 6th July, 1968, the provisions under Section 40A(2) and particularly with regard to the transaction between the relatives and associates is concerned, the same shall be treated as bonafide case unless the officer finds it that one of them is trying to evade payment of tax.

OUR COMMENTS: In the above case, the **Hon'ble Gujarat High Court** held that the assessee company as well as the parent company, both are assessed to income tax at the maximum marginal rate and, therefore it cannot be said that the service charge is paid to the assessee company at an unreasonable rate to evade income tax. It was the case of the assessee company that it is the company which is providing various kinds of services to the parent company & the revenue had allowed deduction of service charges from the income to assess the income tax of the assessee in the preceding year. In absence of any material change, it could not have disallowed the claim of service charges under Section 40(A) of the Income Tax Act, 1961. Hence, the appeal made by department is meritless & same deserves to be dismissed & accordingly dismissed. The judgement is given taking in view the observations of the Hon'ble Supreme Court in the case of Commissioner of Income Tax vs. Excel India Ltd. [**Decided in favour of assessee**]

ANDHRA PRADESH

STREAMLINING OF PROCEDURE COLLECTION OF TAX, PENALTY AT THE CHEK POSTS

OUR COMMENTS: The Commercial Tax Department, Government of Andhra Pradesh vide Circular No. Enft.D2/611/2007 dated 10th July, 2015 hereby permits the ACTOs & DCTOs working in check posts, to collect Tax, C-Fees & Penalty by manual issue of cah receipts (temporarily)& the Deputy Commissioners (CT) of divisions may authorise the concerned ACTOs & DCTOs for the same.

ASSAM

USING OF INFORMATION FROM AGRICULTURAL MARKETING INFORMATION NETWORK TO CALCULATE ACCRUABLE TAX LIABILITY OF AGRICULTURAL PRODUCTS LIKE JUTE, ARECANUT (SUPARI)

OUR COMMENTS: The Office of the Commissioner of Taxes, Government of Assam vide Circular No. 8/2015 dated 17th July, 2015 has hereby directed the assessing officers to refer to the relevant price of agricultural products such as **Jute & Arecanut (supari)** hosted in **AGMARKNET [hosted by the Directorate of Marketing & Inspection (DMI), Ministry Of Agriculture, Government of India**] while making assessments or fixing of additional security as per provisions of **AVAT Act 2003 or CST Act, 1956**. Price referred to will be the respective local market from which purchase is made & market recorded accordingly & if local market is not shown in the list of AGMARKNET , then average price as per AGMARKNET is to be considered. The variance in price as determined by the AO should not exceed 10% of price provided the aforementioned government department.

AMENDMENT OF MONTHLY/QUARTERLY RETURN FOR APRIL-JUNE QUARTER 2015

OUR COMMENTS: The Office of the Commissioner of Taxes, Government of Assam vide Circular no. 9/2015 dated 20th July, 2015 has allowed filing of details under Part-G to Part-N of Form-13 for the April-June quarter manually complying with notification no. FTX.29/2003/Pt.I/25 dated 02.06.2015 under which the tax return was amended as:

- The period of filing details in Part-G top Part-N of Form-1 was amended from quarterly to monthly, and,
- Invoice wise detail was required to be put in lieu of dealer wise in the above mentioned parts.

However, dealers will compulsorily file online return for Part-A to Part-F and manually file for Part-G to Part-N for quarter ending June,15 & from July, 2015, Part-G to Part-N of Form 13 has to be compulsorily filed online.

BIHAR

AMENDMENT OF THE BIHAR TAX ON ENTRY OF GOODS INTO LOCAL AREAS RULES,1993

OUR COMMENTS: The Commercial Taxes Department, Government of Bihar vide Notification No. S.O. 169 dated 21st July, 2015, in exercise of the powers conferred by **subsection (1) of Section 9 of the Bihar Tax on Entry of Goods into Local Areas for Consumption , Use or Sale Therein Act, 1993**, has amended the **Bihar Tax on Entry of Goods into Local Areas Rules, 1993.** These rules may, henceforth, be called **the Bihar Tax on Entry of goods into Local Areas (Amendment) Rules, 2015.**

Readers are advised to refer to the aforesaid rule as significant amendments have taken place.

INSERTION OF PSC/PCC POLE IN SCHEDULE III OF BIHAR VAT ACT,2005

OUR COMMENTS: The Commercial Taxes Department , Government of Bihar vide Notification No S.O. 167 dated 21st July, 2015 has inserted the following entry at Serial No. 151 after Serial No. 150 of Part-I of Schedule-III of Bihar Value Added Tax Act, 2005:

“151.PSC/PCC Pole”.

CHANDIGARH

CHANGE IN RATE OF TAX ON DIESEL[AMENDMENT IN VAT SCHEDULE-E]

OUR COMMENTS: **The Excise & Taxation Department, Chandigarh Administration vide Notification No. E&T-ETO (Ref.)-2015/1914 dated 17th July, 2015** has made the following **amendment in Schedule-E** appended to the **Punjab VAT Act, 2005 (Punjab Act No.8, 2005):**

In **Schedule-E, at Serial No. 8 & entries relating thereto**, the following rate of tax shall be substituted, namely:

SERIAL NO	ITEM	RATE
8	DIESEL	16.40%

DELHI

EXTENTION OF PERIOD FOR FILING OF ONLINE RETURN FOR 1ST QUARTER 2015-16

OUR COMMENTS: **The Department of Trade and Taxes, Government of National Capital Territory of Delhi vide Circular No. 15 of 2015-16 dated 21st July, 2015** has extended the Last Date for online return filing for **1st quarter of Financial Year 2015-16** in **Forms EC-II & EC-III** as notified vide **Notification No. 3(515)/Policy/VAT/2015/330341** dated **26/06/2015 to 30/09/2015.**

JAMMU & KASHMIR

CHANGE IN RATE OF TAX ON SALE OF MOTOR SPIRIT & DIESEL

OUR COMMENTS: **The Finance Department, Government of Jammu & Kashmir vide Notification No. SRO 230 dated 21ST July, 2015** hereby directed that the Rate of Tax on sale of **Motor Spirit & Diesel** is to be levied & paid at the rate of **24% & 16%** advalorem respectively w.e.f. 22nd July,2015.

PUNJAB

AMENDMENT OF P VAT SCHEDULE-E REGARDING CHARGE IN RATE OF TAX ON DIESEL OTHER THAN PREMIUM DIESEL

OUR COMMENTS: The **Department of Excise & Taxation, Government of Punjab** vide Notification No. S.O. 30/P.A.8/2005/S.8/2015 dated 15th has made the following amendment in Schedule-E appended to the said Act, with effect from 16-07-2015:

'In the said schedule, the serial no. 1 & entries relating thereto will be substituted with :

Serial No	Item	Rate
1	Diesel other than premium diesel	13.4%

RAJASTHAN

AMENDMENT IN RVAT SCHEDULE-II

OUR COMMENTS: **The Finance Department, Government of Rajasthan** vide N**otification No. F.12 (75) FD/Tax/2015-59 dated 21st July, 2015** has amended the Schedule II appended to the Rajasthan VAT Act, 2003 in the following manner:

*" In **Schedule II, after Serial No. 71** & corresponding entries thereto, the **new Serial No. & the entry thereof**, which is added is –*

SERIAL NO	ITEM
72	Dealers selling food items cooked by him in heritage hotels categorized as 'Basic' by Government of India

EXEMPTION TO DEALERS SELLING FOOD ITEMS COOKED IN THE HERITAGE HOTELS CATEGORIZED AS 'BASIC'

OUR COMMENTS: The Finance Department, Government of Rajasthan vide **Notification No. F.12 (75) FD/Tax/2015-60 dated 21st July, 2015,** has exempted the tax payable by dealer to the extent the tax rate exceeds 5% on sale of food cooked & served by the dealer in heritage hotels (categorized by the government of India as '**basic**')

TELENGANA

COMPUTER BASED INSPECTION FOR VAT REGISTRATION (ADVISORY VISITS)

OUR COMMENTS: **The Office of The Commissioner Of Commercial Taxes, Government Of Telengana** vide **Circular No. A(1)/107/2015 dated 16th July, 2015** has communicated certain action points to all government departments for ease of business, which require **officers to issue VAT Registration Certificates within 24 hours of submission of all documents** by dealer & **conduct of inspection (advisory visits) of new dealer's premises within 72 hours from date of registration** & inspections are to be based on computerised risk based assessment. Confirmation of address proof submitted has to be done by the officers & the dealer is not required to submit additional documents at the time of inspection.

UTTAR PRADESH

AMENDMENT IN UPVAT SCHEDULE IV – CHANGE OF TAX RATE ON PETROL & DIESEL

OUR COMMENTS: **The Kar Evam Nibhandhan Anubhag-2, Sansthagat Vitta, Uttar Pradesh Shasan** vide Notification No. **KA. NI.21041/ XI9(1)/2008-U.P.Act- 5-2008-Order(136)2015 dated 22nd July, 2015** has made the following amendment in schedule -IV:

In the **Schedule-IV**, the **entries at Serial No3 & 4(c)** shall be **column wise substituted** by the following entries:

S.NO	NAME & DESCRIPTION OF GOODS	POINT OF TAX	RATE OF TAX
1	2	3	4
3	Petrol	M or I	26.80% or Rs. 16.74 per litre whichever is greater
4(c)	Diesel oil as defined in the United Provinces Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939 in cases other than those described in serial nos. 4(a) and 4 (b)	M or I	17.48% or Rs. 9.41 per litre whichever is greater

WEST BENGAL

CASE DECISIONS

M/S KEJRIWAL PIPES FITTINGS AND VALVES & ANR VS SALES TAX OFFICER (CALCUTTA HIGH COURT)

BRIEF: **A dealer or a person can issue C-Forms only after conclusion of sale, provided the applicant for such C-Forms has discharged his obligation as per Rule 89 of West Bengal Sales Tax Rules, 1995.**

OUR COMMENTS: **The Hon'ble Calcutta High Court** has held that only after completion of sale by a dealer to another dealer, obligation of seller to sales tax at 4% is fixed & the rights & obligations of parties gets accrued. It cannot be comprehended that 'C-Form'issued-in-advance in contemplation of sale, taking place in future. Right to charge concessional rate of sales tax together with obligation to furnish the declaration forms accrues only after sale is completed, not in contemplation of sale. The assessee can, however, obtain amended C-Forms from concerned dealers. Based on above observations , the writ petition is dismissed. [**Decided against the Assessee**]