38TH ISSUE

OCTOBER 18TH - OCTOBER 24TH

GST

CENTRAL EXCISE

SERVICE TAX

CUSTOMS

STATE TAXES

TAX CONNECT

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EDITORIAL

Friends,

Wishing you a Very Happy Durga Puja! For us in West Bengal, it is a feel of the fresh morning breeze, the festivity in the air, to get together with loved ones and to smile happily..

On the professional front, **The Draft law for GST** regarding three processes, i.e. payment process, refund process and registration process are already out for public comments. We, from the Bengal Chamber of Commerce & Industry are compiling the views on the same from Trade & Industry. In case you have any issues or points with respect to the same do let us have the same so as to help us make a meaningful representation to The Central Government.

It is expected in all positivity that **the draft law for SGST, CGST & IGST** shall also be available in public domain within the next couple of weeks. The Central Govt. has therefore made its intention very clear that it is ready to implement GST. In fact in all communications, the Ministry of Finance still persists with its cut off date of 1st April 2016 for implementation of GST.

Hence, as of now, 1st October 2016 seems a very possible date for GST going live, if not 1st April 2016.

In Service Tax, the CBEC has come out with a **Notification No. 19/2015-Service Tax dated 14th October, 2015,** notifying a clarification over which it had itself created a confusion. The CBEC has notified that service tax need not be paid on the service provided by an Indian Bank or other Indian entity acting as an agent to the Money Transfer Service Operators (MTSO) in relation to remittance of foreign currency from outside India to India, in the period 1st July, 2012 to 13th October, 2014. It may be noted that **Circular 180/06/2014 dated 14.10.2014** had superseded **CircularNo.163/14/2012-ST** dated 10.7.2012 whereby the CBEC had clarified that the service provided by an Indian entity acting as an agent to MTSOs shall be taxable as Rule 9 of Place of Provision Rules shall be applicable. What was feared was the retrospective application of this circular by the dept. This fear has been quelled by the said notification. It is important to note that from 14th October 2014 the said service provided by an Indian entity acting as an agent to MTSOs shall be taxable.

In Customs, The CBEC vide **Notification No. 101/2015-Customs (N.T.) dated 15th October, 2015** has revised the exchange rate of foreign currencies, w.e.f. 16thOctober, 2015.

In Central Excise, the CBEC vide **Notification No. 21/2015 dated 7th October, 2015** has inserted Rule 6(6)(ix) in Cenvat Credit Rules whereby, Rule 6(1), 6(2), 6(3) & 6(4) regarding non-allowance of Cenvat Credit or reversal of Cenvat Credit, etc shall not be applicable to **Ethanol produced from molasses** generated from cane crushed in the sugar season 2015- 16 i.e. 1st October, 2015 onwards for supply to the public sector oil marketing companies for the purposes of blending with petrol.

Just to reiterate that we remain available over a telecon or e-mail.

Truly Yours

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

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

INDEX GUIDE

COMPLIANCES CALENDAR

DUE DATE	COMPLIANCES FROM 18TH OCTOBER, 2015 TO 24TH OCTOBER, 2015	STATUTE
20th Oct'15	Deposit of Professional Tax	Karnataka VAT Act West Bengal VAT Act
21st Oct'15		Orissa VAT Act
20th Oct'15	Deposit of Entry Tax	Andhra Pradesh VAT Act Karnataka VAT Act UP VAT Act Uttaranchal VAT Act
21st Oct'15		Orissa VAT Act West Bengal VAT Act
22nd Oct'15		Gujarat VAT Act
21st Oct'15	Deposit of ESI	ESI Act
20th Oct'15	Return of WCT (Monthly) Return of WCT (Quarterly)	Karnataka VAT Act Uttaranchal VAT Act
20th Oct'15	Issuance of WCT certificate	UP VAT Act Uttaranchal VAT Act Manipur VAT Act
22nd Oct'15		Delhi VAT Act
20th Oct'15	Deposit of WCT	Andhra Pradesh VAT Act Karnataka VAT Act UP VAT Act Uttaranchal VAT Act Goa VAT Act Tamil Nadu VAT Act
21st Oct'15		Maharashtra VAT Act
22nd Oct'15		Gujarat VAT Act
20th Oct'15	Deposit of VAT (Monthly)	Assam VAT Act Maharashtra VAT Act Orissa VAT Act Meghalaya VAT Act
	Deposit of VAT (Quarterly)	Delhi VAT Act West Bengal VAT Act Nagaland VAT Act
21st Oct'15	Deposit of VAT (Monthly)	Tamil Nadu VAT Act UP VAT Act Andhra Pradesh VAT Act Manipur VAT Act Punjab VAT Act (through cheque)
	Deposit of VAT (Quarterly)	Goa VAT Act (Tax >=1 lac) Uttaranchal VAT Act Punjab VAT Act (through cheque)
22nd Oct'15	Deposit of VAT (Monthly)	Gujarat VAT Act
20th Oct'15	Filing of VAT return (Monthly)	UP VAT Act Andhra Pradesh VAT Act Karnataka VAT Act Tamil Nadu VAT Act Manipur VAT Act Punjab VAT Act (through cheque)
	Filing of VAT return (Quarterly)	Uttaranchal VAT Act
21st Oct'15	Filing of VAT return (Monthly)	Assam VAT Act Maharashtra VAT Act Orissa VAT Act Meghalaya VAT Act

REPORT OF THE JOINT COMMITTEE ON THE REGISTRATION PROCESS IN GST REGIME

Introduction

Registration of a business with the tax authorities is the fundamental requirement for identification of the business or for having any compliance verification program.

After registration under GST regime, a business will be legally recognized as supplier of goods or services and will be entitled for input credit or pass on the credit.

Structure of Registration number

In the GST regime, registration will not be allowed without a valid PAN. **Goods and Services Taxpayer Identification Number (GSTIN) will be PAN-based 15-digit code.**

Procedure for obtaining Registration

For New registrants

- New applicant can apply for registration
  Directly - at the common Portal **"GST Common Portal"** (set up by GSTN); or
  Indirectly - at the GST Common Portal **through Tax Return Preparer (TRP) and the Facilitation Centre (FC)** who will upload the form and the required documents on the basis of the information provided by the applicant.
- **Multiple registrations within a State** for business verticals of a taxable person **would be allowed** subject to specific stipulations.
- Alongwith the registration form, some scanned documents will be required to be uploaded in respect to constitution of business, place of business, bank account, photographs etc.
- After preliminary verification of information in the form and documents uploaded, GST portal will pass on the form to the IT system of concerned State/Central tax authorities. They will then forward the application to jurisdictional officers to examine the uploaded documents and respond back to the common portal. **An indicative process for processing of the application by the concerned tax authorities will be drafted and shared separately.**
- After processing, the applicant shall be informed if the registration is granted or refused.

- If granted, applicant can download the Registration Certificate from the GST common portal.
- If refused, the applicant will be informed with the reason and the right to appeal.

- A risk profile will be available at the portal and the Central/State tax authorities will also have their own risk profile based on which the jurisdictional officer will take a decision about post registration verification

For Existing registrants

- Existing registrants are those who are either registered with States or with the Centre or with both. **In the GST regime, a taxpayer will have to obtain State wise registration.**
- The system shall be designed to migrate verified data from the existing database to the GST Common Portal and a GSTIN shall be generated.
- **For taxpayers Registered under State VAT/Excise Where PAN has been validated**
  - GSTIN will be generated by NSDL along with a password and will be sent to respective State Tax Authorities.
  - State tax authorities will communicate the GSTIN/password to taxpayers, with instruction to fill up the remaining data on the portal.

  Where PAN has not been validated, State VAT department will have to collect the taxpayers.

- **For Service taxpayers (registered with the Centre)**
  - Tax payers may be advised to intimate State(s) where they would like to get themselves registered in.
  - Service Tax portal will request GST portal to generate the same GSTIN, if not already generated. GST portal will communicate the GSTIN to the tax payer (through service tax) and ask the tax payer to fill the remaining information at the portal within a specified period.
  - Any verification by State / Central authorities can be done after GSTIN is issued.

Other key points

- Dealers below the Compounding ceiling will be provided with an option of availing the Compounding Scheme

- Most of the amendments in the Registration Form can be done on self-service basis

- The GST Law will contain the appropriate provisions relating to revocation/surrender/cancellation of registration.

SERVICE TAX

NOTIFICATIONS & CIRCULARS

SERVICE TAX WAIVED FOR A SPECIFIED PERIOD IN RELATION TO REMITTANCE OF FOREIGN CURRENCY FROM OUTSIDE INDIA TO INDIA

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 19/2015-Service Tax dated 14th October, 2015** has directed that-

The service tax payable under section 66B of the Finance Act, 1994, on the service provided by an Indian Bank or other entity acting as an agent to the Money Transfer Service Operators **(MTSO)** in relation to remittance of foreign currency from outside India to India, in the period**1st day of July, 2012 to 13th day of October, 2014,** but for the remittance of foreign currency from outside India to India, shall not be required to be paid.

COURT DECISIONS

HIRANANDANI CONSTRUCTIONS PVT LTD VERSUS COMMISSIONER OF CENTRAL EXCISE THANE-I [CESTAT MUMBAI]

BRIEF: No service tax liability arises under the category 'Management, Maintenance or Repair Service' for the amounts collected from the prospective flat ownership respect of maintenance or repairs of residential units.

OUR COMMENTS: In the above case, the appellant are required to make payment relating to Revenue assessment, insurance, all other taxes, levies, electricity and water charges and deposits in respect of common electrical and water pumps and other installations. Additionally, they are paying for the maintenance and repair of common areas and facilities, wages or watchmen, sweepers etc. According to the adjudicating authority, service tax liability arises on the same.

However, **the Hon'ble CESTAT** held that appellants cannot be held as service providers as they are not in the business of maintenance or repair service or management of immovable property. They are only paying (on cost basis) for these services on behalf of various buyers of flats and are not charging anything on their own. So, no service tax liability arises on the same.

[Decided in favour of the assessee]

COMMISSIONER OF CENTRAL EXCISE, NAGPUR VERSUS SHIVLAL SHARMA, NAGESH FABRICATORS, SUJIT PATIL [CESTAT MUMBAI]

BRIEF: Execution of a lump-sum service provided by the assessee in the factory of the service recipient would not constitute supply of manpower directly or indirectly, temporarily or otherwise and will not be covered under the category of "Manpower Supply Recruitment Services".

OUR COMMENTS: In the above case, the assessee has undertaken a job at the factory premises of M/s. Amitasha Enterprises Pvt. Ltd. for a lump sum consideration. The Revenue appealed and demanded service tax on this consideration by classifying the services under the head ""Manpower Supply Recruitment Services". The assessee contested on the ground that activity carried out is part and parcel of the manufacturing activity of M/s. Amitasha Enterprises Pvt. Ltd. who has factored this consideration in their cost of production and also paid excise duty on the same while its clearances from the factory. The service tax liability on the same will amount to double taxation.

The Hon'ble CESTAT held that being a lump-sum work, the services provided by the appellants would not constitute supply of manpower directly or indirectly, temporarily or otherwise.

[Decided against Revenue]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CENTRAL EXCISE

NOTIFICATIONS & CIRCULARS

MODIFICATION IN CENVAT CREDIT RULES, 2004 (RULE 6)

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 21/2015 dated 7th October, 2015** has modified the Cenvat Credit Rules, 2004 and these rules may be called the CENVAT Credit (Fourth Amendment) Rules, 2015.

In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 6, in sub- rule (6), after clause (viii) and the entries relating thereto, the following shall be inserted, namely:-

(ix) Ethanol produced from molasses generated from cane crushed in the sugar season 2015- 16 i.e. 1st October, 2015 onwards, for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol, in terms of the provisions of S.No.40A of the Table in notification No.12/2012-Central Excise, dated the 17th March, 2012, number G.S.R. 163(E), dated that 17th March, 2012.

COURT DECISIONS

LEROY SOMER INDIA PVT. LTD. VERSUS COMMISSIONER OF C. EX., NOIDA [CESTAT NEW DELHI]

BRIEF: Cenvat credit is allowed on repairs and maintenance services provided by the service provider on behalf of the assessee to the buyers during the period of warranty being a condition attached to the sale.

OUR COMMENTS: The assessee is manufacturer of alternator and sells them with the guarantee of repairs and maintenance service for a specified period. He engaged service providers to provide the said service to the buyers and paid Service Tax thereon and then took Cenvat credit of the same.

However, Revenue denied this credit as the services rendered after the sale of the goods cannot be treated as input service.

The Hon'ble CESTAT held that the assessee is bound to provide these services in the warranty period. **Being a condition to sale, the services here is a business activity** without which the customers will not be able to do the business, therefore, the assessee is entitled to take Cenvat credit on the same.

[Decided in favour of the assessee]

COMMISSIONER OF CENTRAL EXCISE VERSUS M/S. GODREJ HERSHEY LTD. [SUPREME COURT]

BRIEF: There **is no distinction between fruit juice and the fruit juice beverages – both are fruit preparation within the meaning of Tariff Heading 20.01.**

OUR COMMENTS: The assessee is manufacturer of fruit beverages known as Apple Tree Top, Mango Tree Top, Guava Tree Top and Orange Tree Top. For the assessee, the beverages fall within Tariff Heading 20.01 of the Central Excise Tariff Act, being a fruit preparation. However, according to the Revenue, the appropriate Tariff heading was 22.02 which cover, inter-alia, other non-alcoholic beverages not including fruit and vegetable juices.

The Hon'ble Supreme Court held that the construct of Chapter 22.02 is oriented towards such beverages which are other than fruit juice beverages. Also, there is no criterion in the two Tariff headings to distinguish the products on the basis of their concentration. Thus, a diluted fruit juice never ceases to be a fruit juice beverage and would, for all practical purposes, continue to remain as preparation of fruit.

So the products in question are "fruit preparation" within the meaning of Tariff Heading 20.01.

[Decided against Revenue]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CUSTOMS

NOTIFICATIONS & CIRCULARS

APPOINTMENT OF OFFICERS FOR ADJUDICATION OF CASES ASSIGNED BY CBEC

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 98/2015-Customs (N.T.) dated 12th October, 2015** has appointed officers mentioned in column (2) of the Table below as Principal Commissioner or Commissioner of Customs for the purpose of adjudicating the cases assigned to them by CBEC by an Order in respect of officers mentioned in column (3) of the said Table, namely:-

TABLE

SL. NO.	Designation of Officer	Area of jurisdiction
1.	Commissioner of Central Excise, Raigad, Mumbai-II (Central Excise Zone).	**(i)** Principal Commissioner of Customs (Nhava Sheva-I), Mumbai, Zone –II. **(ii)** Principal Commissioner of Customs (Nhava Sheva-II), Mumbai, Zone –II. **(iii)** Commissioner of Customs (Nhava Sheva-III), Mumbai, Zone –II. **(iv)** Commissioner of Customs (Nhava Sheva-IV), Mumbai, Zone –II **(v)** Commissioner of Customs (Nhava Sheva-V), Mumbai, Zone –II **(vi)** Commissioner of Customs (Nhava Sheva General), Mumbai, Zone –II.
2.	Principal Commissioner of Customs, Airport-I, Mumbai Customs Zone-III	**(i)** Principal Commissioner of Customs (Nhava Sheva-I), Mumbai, Zone –II. **(ii)** Principal Commissioner of Customs (Nhava Sheva-II), Mumbai, Zone –II. **(iii)** Commissioner of Customs (Nhava Sheva-III), Mumbai, Zone –II. **(iv)**Commissioner of Customs (Nhava Sheva-IV), Mumbai, Zone –II. **(v)** Commissioner of Customs (Nhava Sheva-V), Mumbai, Zone –II. **(vi)**Commissioner of Customs (Nhava Sheva General), Mumbai, Zone –II.
3.	Commissioner of Central Excise, Thane-I, Mumbai-I (Central Excise- Zone-I).	**(i)** Principal Commissioner of Customs (Nhava Sheva-I), Mumbai, Zone –II. **(ii)** Principal Commissioner of Customs (Nhava Sheva-II), Mumbai, Zone –II. **(iii)** Commissioner of Customs (Nhava Sheva-III), Mumbai, Zone –II. **(iv)** Commissioner of Customs (Nhava Sheva-IV), Mumbai, Zone –II. **(v)** Commissioner of Customs (Nhava Sheva-V), Mumbai, Zone –II. **(vi)** Commissioner of Customs (Nhava Sheva- General), Mumbai, Zone –II.

AMENDMENT IN NOTIFICATION NO. 61/94-CUSTOMS (N.T.) DATED 21ST NOVEMBER, 1994

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 99/2015-Customs (N.T.) dated 15th October, 2015** has amended **Notification No. 61/94-Customs (N.T.), dated the 21st November, 1994**, namely:-

In the said notification, in the Table, against the serial number 2 relating to the State of Andhra Pradesh, in columns (3) and (4), for item (c) and the entries relating thereto in column (4), the following shall respectively be substituted, namely :-

(3)	(4)
c) Tirupati	Unloading of imported goods or loading of export goods or any class of such goods.”

FIXATION OF T V OF EDIBLE OIL, BRASS, POPPY SEED, ARECA NUT, GOLD AND SLIVER

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 100/2015-Customs (N.T.) dated 15th October, 2015** has amended **Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001.**

In the said notification, the tables TABLE-1, TABLE-2, and TABLE-3 in respect to T V of Edible oil, Brass, Poppy seed, Areca nut, gold and Silver have been substituted. Please refer the aforesaid notification for details.

REVISION OF EXCHANGE RATE OF FOREIGN CURRENCIES INTO RUPEE & VICE VERSA

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 101/2015-Customs (N.T.) dated 15st October, 2015 & in supersession of Notification No. 97/2015-Customs (N.T.) dated 1stOctober, 2015** has **revised the exchange rate of foreign currencies** specified in col.(2) of each of **Schedule I** and **Schedule II** annexed hereto, into Indian currency or vice versa, w.e.f. **16thOctober, 2015** to be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods:

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	48.35	46.95
2.	Bahrain Dinar	177.15	166.85
3.	Canadian Dollar	50.75	49.65
4.	Danish Kroner	10.10	9.85
5.	EURO	75.30	73.45
6.	Hong Kong Dollar	8.45	8.30
7.	Kuwait Dinar	221.60	208.55
8.	New Zealand Dollar	44.90	43.55
9.	Norwegian Kroner	8.15	7.90
10.	Pound Sterling	101.40	99.20
11.	Singapore Dollar	47.70	46.60
12.	South African Rand	5.05	4.75
13.	Saudi Arabian Riyal	17.80	16.80
14.	Swedish Kroner	8.10	7.90
15.	Swiss Franc	69.15	67.50
16.	UAE Dirham	18.15	17.15
17.	US Dollar	65.35	64.30

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of100 units of foreign currency equv.to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	55.10	53.85
2.	Kenya Shilling	64.65	61.00

GUIDELINES FOR VALUATION OF SECOND HAND MACHINERY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 25/2015-Customs dated 15th October, 2015** has superseded **Circular No. 4/2008-Customs, dated the 12th February, 2008** and provided guidelines for valuation of second hand machinery. Please refer the aforesaid circular for details.

COURT DECISIONS

COMMR. OF CUS., JAIPUR-I Versus SHRI KRISHNA PAPER MILLS & INDUSTRIES LTD [CESTAT NEW DELHI]

BRIEF: Waste paper imported for manufacture of paper is eligible for concessional rate per Notification no. 21/2002-CUS being goods falling under heading 4707. Even though some of the paper in the damaged (waste) rolls is of serviceable quality, the whole consignment cannot be treated as of prime quality kraft paper and denied concessional rate.

OUR COMMENTS: In the above case, the importer is manufacturer of paper including kraft paper by recycling waste paper, so eligible for concessional rate per **Notification no. 21/2002-CUS**. However, the Revenue contested that a part of the imported waste paper rolls contained paper of serviceable quality so the consignment is ineligible for duty exemption under the said notification.

The Hon'ble CESTAT held that just because some of the paper contained in the damaged (waste) rolls is of serviceable quality, the whole consignment cannot be treated as of prime quality kraft paper. Moreover, the Adjudicating Authority has also accepted the declared transaction value of the goods.

Accordingly, the appeal filed by the Revenue was rejected.

[Decided in favour of the assessee]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

INCOME TAX

NOTIFICATIONS & CIRCULARS

AMENDMENT IN INCOME TAX RULES, 1962 [RULE 11DD (2) & (3)]

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 78/2015 dated 12th October, 2015 has amended the Income Tax Rules, 1962**. These rules may be called the **Income tax (15th Amendment) Rules, 2015.**

In Rule 11DD, the sub-rules (2) & (3) have been substituted.

For details please read the aforesaid notification.

AMENDMENT IN NOTIFICATION NO. S.O.2752(E) DATED 22ND OCTOBER, 2014

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 79/2015 dated 13th October, 2015 has amended Notification No. S.O.2752(E) dated 22nd October, 2014** as follows:

(I) against serial number 13, in column (4), in item (b), after sub-item (xxx), insert "(xxxi) Samta";

(II) against serial number 18.-

(a) in column (5).-

(i) in items (a), (b) and (c), for "(a), (b), and (c)", read "(a) and (b)" respectively;

(ii) after item (d), insert-

"(e) persons being individuals deriving income from sources other than income from business or profession and residing within the territorial areas mentioned in item (c) of column (4)";

(b) in column (6), after item (b), insert-

"(c) all cases of persons referred to in corresponding item (e) of column (5) whose principal source of income is 'salary'";

AMENDMENT IN NOTIFICATION NO. S.O.2793(E) DATED 30TH OCTOBER, 2014

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 80/2015 dated 14th October, 2015 has amended Notification No. S.O.2793(E) dated 30th October, 2014** as follows:

In the Schedule,-

(i) against serial numbers 1 to 26, in column (5), for "Any person responsible for deducting or collecting tax at source for the purposes of Chapter XVII B or XVIIBB located in the territorial area mentioned in column (4)", read "(a) Any person responsible for deducting or collecting tax at source for the purposes of Chapter XVII B or XVII BB located in the territorial area mentioned in column (4); (b) Any other person located within the territorial area mentioned in column (4)";

(ii) against serial number 1, in column (4), in item (a),-

(a) for "Botandm", read "Botad";
(b) after "Morbi", insert "Bhavnagar".

COURT DECISIONS

THE COMMISSIONER OF INCOME TAX 24 VERSUS M/S. SILVASSA WOODEN DRUMS[HIGH COURT]

BRIEF: Galvanizing of H.R. strips/Coils/CR Coils amounts to manufacture/production of article/thing entitled for deduction u/s. 80IB.

OUR COMMENTS: In the above case, the assessee is a firm engaged in manufacturing galvanised steel tapes and cold rolled strips. It claimed **deduction u/s 80IB** which was allowed by the Tribunal but then challenged by the Revenue.

The Tribunal carefully noted that the raw material and end products emerging during the course of the manufacturing process have a different commercial connotation and use and a new and distinct output is generated from the process.

The Hon'ble High Court held the same view and considered it to be a manufacturing activity entitled for deduction u/s 80IB.
[**Decided against Revenue**]

ASSTT COMMISSIONER OF INCOME TAX VERSUS OCP INDIA PVT LTD [ITAT CUTTACK]

BRIEF (1): If the assessee company has accepted loan/advance from another company and has common director and shareholder in the lending company, the provisions of Sec 2(22)(e) are not applicable until the common shareholder has substantial interest (minimum of 20% of shares having voting power) in both the companies.

OUR COMMENTS (1): In the above case, the assessee company is engaged in the business of manufacturing of PSC (Pre-stressed concrete) railway sleepers, PSC polls and execution construction contracts. It has received unsecured loan from M/s. Rungta Agencies Pvt Ltd. (RAPL) where Bhanu Prakash Rungta is the common Director and registered share holder of both the companies.

Other facts of the case are:

i)The assessee company does not hold any shares in RAPL and is not a shareholder member in RAPL.

ii) Shri B.P.Runta holds 12.9% of equity shares in the assessee company and 28.2% of equity shares in RAPL.

iii) RAPL is not a company in which public are substantially interested.

The Assessing Officer held that as the assessee company is holding more than 10% of the voting power in RAPL, the loan falls u/s 2(22)(e) of the Act and, accordingly, treated the loan amount as deemed dividend in the hands of the assessee.

However, **the Hon'ble ITAT** held that unless a person holds minimum of 20% of shares having voting power in a company, he cannot be said to be a person who has a "Substantial interest" in the company.

Therefore, the loan cannot be taxed as deemed dividend u/s 2(22)(e) in the hands of the assessee.

[Decided in favor of the assessee]

<u>BRIEF (2)</u>: Unrealisable closing stock i.e. stock with no market value can be presented in the books at nil amount. If sold occasionally leading to windfall gains, will not mean that it can be treated as realizable stock.

<u>OUR COMMENTS (2)</u>: In the same case, the assessee was showing rejected PSC sleeper in closing stock at Nil amount. The AO rejected the Nil value of rejected sleeper and added it back to total income as per regular valuation.

The assessee contended that PSC sleepers are products which are specific to Indian Railways, so if they are rejected by the Railways due to some defects, they stay dumped inside the factory for an indefinite period unless bought by some private party occasionally. Therefore, they are presented at Nil amount as they do not have any market value in the ordinary course of business.

Here, **the Hon'ble ITAT** held that the product in question is not marketable products on a regular basis. Just because there is a stray sale of the product once in a while, regular valuation at the end of the year is unfair.
[Decided in favor of the assessee]

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

ANDHRA PRADESH

6.75% DISCOUNT RATE FOR NPV CALCULATION OF DEFERRED TAXES BY INDUSTRIAL UNITS

OUR COMMENTS: The Commercial Tax Department, Government of Andhra Pradesh **vide Notification G.O.Rt.No.965 dated 7th October, 2015** has prescribed **6.75% discount rate** for calculation of NPV of deferred taxes by an industrial unit which will be valid for one year from the date of publication of the notification.

DELHI

AMENDMENT IN CIRCULAR NO. 23 OF 2015-16 ISSUED ON 10/09/2015

OUR COMMENTS: The Department of Trade and Taxes, Government of National Capital Territory of Delhi **vide Circular No.F3(556)/Policy/VAT/2015/Pt.File/660-66 dated 9th October, 2015** has partially modified **Circular No. 23 of 2015-16 issued on 10/09/2015.**

In the aforesaid circular, the words 'who are paying tax u/s. 16 of the Act; and' appearing at sub-para (iii) of Para 3 should be read as 'who are not paying tax u/s. 16 of the Act, and'

Rest of the contents of the said Circular shall remain same.

EXTENSION OF THE LAST DATE FOR FILING OF ONLINE RETURNS FOR THE 1ST AND 2ND QUARTERS OF THE YEAR 2015-16, IN FORMS EC-II AND EC-III

OUR COMMENTS: The Department of Trade and Taxes, Government of National Capital Territory of Delhi vide **Notification No.F.3(515)/Policy/VAT/2015/870-81dated 12th October, 2015** has **partially modified Notification No.F.3(515)/Policy/VAT/2015/805-816 issued on 29/09/2015** and extended the last date for filing of online returns for the 1st and 2nd quarters of the year 2015-16, in Forms EC-II and EC-III to **16/11/2015**.

AWARD SCHEME FOR THE GENERAL PUBLIC 'BILL BANVAO, INAAM PAO'

OUR COMMENTS: The Department of Trade and Taxes, Government of National Capital Territory of Delhi vide **Notification No.F.3(15)/FIN.(REV-I)/2015-16/DS VI/843 dated 8th October, 2015** is introducing an award scheme for the general public **'Bill Banvao, Inaam Pao'**. The scheme would be for Bill/Cash Memo/Retail Invoice of purchases made from a registered dealer in Delhi.

Please refer the aforesaid notification for details.

UTTARAKHAND

AMENDMENT IN SCHEDULE OF UTTARAKHAND TAX ON ENTRY OF GOODS INTO LOCAL AREA ACT, 2008

OUR COMMENTS: The Finance Section, Government of Uttarakhand **vide Notification No. 748/2015/24(120)/XXVII(8)/2010 dated 12th October, 2015** has amended the Schedule of Uttarakhand Tax on Entry of Goods into Local Area Act, 2008 as follows:-

Sl.No	Description of Goods
1	2
1.	Raw Petha and Petha Sweet

AMENDMENT IN SCHEDULE-I OF THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

OUR COMMENTS: The Finance Section, Government of Uttarakhand **vide Notification No. 897/2015/2(120)/ XXVII(8) /2012 dated 8th October, 2015** has amended the Schedule-I of Uttarakhand Value Added Tax Act, 2005 as follows:-

In Schedule I, for the existing entry at serial no. 55, the following entry shall be substituted; namely –

Sl. No	Description of goods	Rate of Tax
1.	i) Slate (excluding writing boards), slate pencils. ii) Scale and duster made of timber or wood of kinds/species other than Teak, Devdar, Saal, Sheesham, Kail or Sain subject to the condition that sale of these goods of such dealers is not more than Rs 50 lakh in a financial year.	Exempt

TAX ON ENTRY OF RAW PETHA AND PETHA SWEET BROUGHT FROM OTHER STATES

OUR COMMENTS: The Finance Section, Government of Uttarakhand **vide Notification No. 904/2015/24(120)/ XXVII(8)/ 2010 dated 12th October, 2015** has directed that the tax on entry of goods specified in column 2 of the Schedule below shall be levied and collected at the rate specified in column 3 of the Schedule:

Sl. No	Description of goods	Rate of Tax
1	2	3
1.	Raw Petha and Petha Sweet brought from other States	5 Percent of the value of goods