57TH ISSUE

28 FEB 2016 - 5 MAR 2016

TAX CONNECT

GST

SERVICE TAX | CENTRAL EXCISE

CUSTOMS | INCOME TAX

STATE TAXES

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EDITORIAL

Friends

Just ahead of the budget 2016, the CBEC has issued a series of notifications. We have covered all of them is various issues. Two important Notifications we are covering in this issue are N No 6/2016 & 7/2016 whereby all the services provided by the Government or local authority to a business entity, except the services that are specifically exempted or covered in the Negative List, shall be liable to service tax w.e.f. 1.4.2016. **Businesses should also note in this regard that in respect of certain services provided by Government or local authority, reverse charge is applicable vide N No 30/2012 dated 20.6.2012. Vide N No 7/2016, reverse charge shall now be applicable in respect of** services provided by Government or a local authority to a business entity with a turnover up to Rs. 10 lacs in the preceding financial year shall be exempt from service tax. **Further the term "Government" has been defined exhaustively in Finance Act 2015. Hence while making payments to Government Bodies; one should remain take extreme care as to suitably dispel one's Service Tax obligations.**

Further, the Economic Survey of 2015-16 has been presented by the FM. The highlights are as under –

1. GST rollout to mark an unprecedented reforms measure in the modern global tax history. However, as of now GST looks certain to be delayed at least until 1.4.2017.

2. Trade deficit declines to 106.8 billion US dollars in April-January 2015-16 from 119.6 billion US dollars in corresponding period 2014-15.

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4. Economic Survey 2015-16: Services Sector remains the Key Driver of Economic Growth contributing almost 66.1% in 2015-16.

5. Fiscal Deficit target of 3.9% for 2015-16 seems Achievable, says the Economic Survey.

6. Impressive strides made in the power sector in the last two years: addition of record generation capacity moves towards one market in power, reform of discoms and development of renewable energy.

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

Truly Yours

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INDEX

COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 28th February, 2016 to 5th March, 2016	STATUTE
28th February, 2016	Deposit of VAT of previous month	Arunachal Pradesh VAT Act
	Filing of monthly/quarterly/annual VAT return	Arunachal Pradesh (Monthly, if annual turnover>Rs. 1 crore)
	Due date for VAT Audit	Uttarakhand VAT Act
29th February, 2016	Deposit of VAT of previous month	Punjab VAT Act (if payment otherwise than by cheque) Tripura VAT Act Mizoram VAT Act Himachal Pradesh VAT Act Jammu & Kashmir VAT Act Goa VAT Act (if Tax < Rs. 1 lac)
	Filing of monthly/quarterly VAT return	Himachal Pradesh VAT Act (Monthly, if Turnover in PY is>Rs 5 crores) Punjab VAT Act (if payment otherwise than by cheque) Tripura Vat Act (Monthly/Quarterly)
	Deposit of WCT of previous month	Goa VAT Act (Monthly, if Tax< Rs. 1 lac))
	Filing of monthly/quarterly/annual WCT return	Assam VAT Act (Annual) Bihar VAT Act (Monthly) Chandigarh VAT Act (Monthly) Rajasthan VAT Act (Monthly) Tamil Nadu VAT Act (Monthly)
	Issuance of WCT certificate	Assam VAT Act (Monthly) Arunachal Pradesh VAT Act (Yearly)
	Deposit of Entry tax of previous month	Assam VAT Act Maharashtra VAT Act (For unregistered dealers) Goa VAT Act
5th March, 2016	Deposit of P tax of previous month	Maharashtra VAT Act
	Deposit of WCT of previous month	Kerala VAT Act
	Service Tax deposit of previous month (Company/ Society)	Finance Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016 – RETURNS

The provisions for Returns covered in CHAPTER IX of the model GST Act can be summarized as follows:

Details of outward supplies

- The details of outward supplies and credit or debit notes issued shall be furnished electronically **within 10th of every succeeding month** (other than under compounding scheme)**.**
- The details shall be communicated to the receiver of outward supplies for furnishing the details of inward supplies within the prescribed period.
- Any rectification of error shall be allowed before filing of the return for the month of November (September, for credit note issued) following the end of the financial year or filing of the annual return, whichever is earlier.

Details of inward supplies

- The details of inward supplies (received from supplier and modified if required) shall be furnished, electronically, **within 15th day of the succeeding month.**
- Any rectification of error shall be allowed before filing of the return for the month of September (November, for credit note received) following the end of the financial year or filing of the annual return, whichever is earlier:

Returns

- Every registered taxable person (other than under compounding scheme) shall furnish **monthly return within 20th of the succeeding month.**
- Person under compounding scheme shall furnish **quarterly return within 18th of the succeeding month** of the end of such quarter.
- The tax due shall be paid not later than the last date of filing return, else, such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.
- Every person deducting tax at source shall make payment and furnish **monthly return for the tax so deducted within 10th of the succeeding month.**
- Any rectification of error shall be allowed before filing of the return for the month of November/second quarter, as the case may be, following the end of the financial year or filing of the annual return, whichever is earlier:
- Taxable person (other than a casual or non-resident taxable person) shall furnish an **annual return electronically within 31st December following the end of financial year.**

Late fee

If the details of outward or inward supplies or return is not filed by the due date, a late fee of Rs. 100/day shall be charged subject to a maximum of Rs. 5,000.

Tax Return Preparers

An approved Tax Return Preparer may be authorized to furnish the above details on behalf of the taxable person.

SERVICE TAX

NOTIFICATIONS/CIRCULARS

SWACHH BHARAT CESS SHALL NOT BE LEVIABLE ON SPECIAL ORDER ISSUED UNDER SUB-SECTION (1) OR AS THE CASE MAY BE UNDER SUB-SECTION (2) OR OTHERWISE NOT LEVIABLE TO SERVICE TAX UNDER SECTION 66B OF THE FINANCE ACT, 1994

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 5/2016-Service Tax dated 17.02.2016** has amended **Notification No. 22/2015-Service Tax dated 06.11.2015.**

As per notification dated 6.11.2015, Swachh Bharat Cess shall not be leviable on services which are exempt from service tax by a notification issued under sub-section (1) of section 93 of the Finance Act, 1994.

After the amendment dated 17.02.2016, in addition to above, Swachh Bharat Cess shall not be leviable on special order issued under sub-section (1) or as the case may be under sub-section (2) or otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

1ST APRIL 2016 TO BE THE EFFECTIVE DATE FOR PROVISIONS OF SECTION 109(1) OF THE FINANCE ACT, 2015

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 6/2016-Service Tax dated 18.02.2016** has appointed the 1st day of April, 2016 as the effective date for provisions of section 109(1) of the Finance Act, 2015.

As per the notification, all the services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax w.e.f. 1.4.2016

SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY TO A BUSINESS ENTITY HAVING TURNOVER UPTO RS. 10 LACS EXEMPTED FROM SERVICE TAX

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 7/2016-Service Tax dated 18.02.2016** has amended Notification NO. 25/2012-Service Tax dated 20.06.2012 and exempted the services provided by Government or a local authority to a business entity with a turnover up to Rs. 10 lacs in the preceding financial year from payment of service tax.

COURT DECISIONS

PIRAMAL ENTERPRISES LTD. VERSUS COMMISSIONER OF SERVICE TAX MUMBAI [CESTAT MUMBAI]

BRIEF: Refund of excess payment of service tax due to reduction in value of services on the basis of credit note, is allowed.

OUR COMMENTS: In the above case, the is registered with the service tax authorities as provider of "management consultancy services." He entered into an agreement with M/s Nicholas Piramal India Ltd by which in return for services, he would be compensated @0.50% of turnover besides sharing in the expenditure incurred by the appellant for rendering services as per agreed proportion. He charged the client a certain amount of fee and after 3 months reduced the fee amount after mutual agreement and issued a credit note to the client. On the service tax component covered in the credit note, he sought refund on account of over payment of tax.

The revenue rejected the refund claim on the ground that the reduction did not appear to have extended beyond the second component of the compensation, i.e. the share in expenses, in the service agreement.

The Hon'ble CESTAT held that re-negotiation after initial payments does not weaken the claim because the fact of reduced net consideration is incontrovertible; the transaction does not extend to a chain beyond the assessee and his client and therefore, it can be deduced that the incidence of tax has had no scope of being passed on.

Accordingly, refund shall be allowed.

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[Decided in favor of assessee]

CENTRAL EXCISE

COURT DECISIONS

ARBES TOOLS PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, MUMBAIII [CESTAT MUMBAI]

BRIEF: Courier bill of entry is a valid document for claiming cenvat credit under Rule 9 of CENVAT Credit Rules, 2004.

OUR COMMENTS: In the above case, the assessee is a manufacturer of excisable goods and has imported certain components for manufacturing his products.

He took cenvat credit on the goods imported and filed courier bill of entry instead of the original bill of entry.

The revenue denied the cenvat credit and issued a show cause notice for not filing the original bill of entry.

The Hon'ble CESTAT held that courier bill of entry is a valid document for claiming cenvat credit under Rule 9 of CENVAT Credit Rules, 2004.

Also, cenvat credit cannot be denied on mere technical grounds.

[Decided in favour of assessee]

PRIMO PICK N PACK LTD. VERSUS CCE & ST, BHOPAL [CESTAT NEW DELHI]

BRIEF: Capital goods moved only between the assessee's own units, and that too for use in the manufacture of the same final products, the credit cannot be denied.

OUR COMMENTS: In the above case, the assessee is a manufacturer. He shifted the machine and semi finished goods to another premises near to the factory for completion of manufacturing process due to shortage of space in the factory and shifted back the finished goods to factory from that rented premises within 180 days. The whole transaction is well supported by challans and no job work is involved in the process.

He paid excise duty on the machine and availed credit of 50% in the same financial year and 50% in the next financial year. A show cause notice was issued alleging that the assessee has wrongly availed cenvat credit on capital goods as the same was used in another premises for short time.

The Hon'ble CESTAT held that from the above facts it can be said that the activity of assessee in using the machine is part of its manufacturing activities of final products in its registered factory premises. Also, there is no suppression of facts on the part of the assessee as he intimated the department about removal of machine by proper documents

Hence, the cenvat credit cannot be denied to the assessee.

[Decided in favour of assessee].

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

CUSTOMS

NOTIFICATIONS & CIRCULARS

CUSTOMS DUTY ON ELECTRICITY IMPORTED OR CLEARED FROM SEZ TO DTA

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 9/2016 – Customs dated 16.02.2016** has amended **Notification No. 12/2012-Customs dated 17.03.2012** and specified customs duty on import of electricity or clearance of electricity from SEZ to DTA.

FURTHER AMENDMENTS IN NOTIFICATION NO. 12/2012 DATED 17.03.2012

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 10/2016 – Customs dated 17.02.2016** has further amended **Notification No. 12/2012-Customs dated 17.03.2012** and included Octreotide & Somatropin in List 3 and Anti- Haemophilic Factor Concentrate (VIII and IX) in List 4.

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. 29/2016-Customs (N.T.) dated 18.02.2016 & in supersession of Notification No. 18/2016-Customs (N.T.) dated 04.02.2016** 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. **19.02.2016** 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	49.65	48.40
2.	Bahrain Dinar	186.90	176.20
3.	Canadian Dollar	50.60	49.55
4.	Danish Kroner	10.35	10.05
5.	EURO	77.05	75.20
6.	Hong Kong Dollar	8.85	8.70
7.	Kuwait Dinar	235.15	222.45
8.	New Zealand Dollar	46.20	45.00
9.	Norwegian Kroner	8.10	7.90
10.	Pound Sterling	98.95	96.75
11.	Singapore Dollar	49.25	48.25
12.	South African Rand	4.55	4.30
13.	Saudi Arabian Riyal	18.75	17.75
14.	Swedish Kroner	8.15	7.95
15.	Swiss Franc	69.80	68.05
16.	UAE Dirham	19.15	18.10
17.	US Dollar	68.95	67.90
18.	Chinese Yuan	10.60	10.40

SCHEDULE-II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equv. to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	60.70	59.35
2.	Kenya Shilling	69.15	65.35

INCOME TAX

NOTIFICATIONS & CIRCULARS

SAFE HARBOUR RULES AMENDED FOR SPECIFIED DOMESTIC TRANSACTIONS

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 5/2016 dated 17.02.2016** has amended safe harbor rules (10THA, 10THB, 10THC, & 10THD) under the Income tax Rules, 1962 for specified domestic transactions.

The notification is self-explanatory. The readers may refer the said notification.

AUTHORISED ENTITIES UNDER SECTION 10(15)(IV)(H) TO ISSUE TAX-FREE, SECURED, REDEEMABLE, NON-CONVERTIBLE BONDS

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 06/2016 dated 18.02.2016** has amended **Notification No. 59/2015 dated 06.07.2015** and authorised entities under Section 10(15)(iv)(h) of the Income Tax Act, 1961 to issue tax-free, secured, redeemable, non-convertible bonds.

Accordingly, National Highways Authority of India (NHAI) has been allocated bonds amount of 19000 crore and National Bank for Agriculture and Rural Development (NABARD) has been allocated bonds amount of 5000 crore.

'ATAL PENSION YOJANA (APY)' NOTIFIED U/S 80CCD OF THE INCOME-TAX ACT, 1961

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 07/2016 dated 19.02.2016** has notified the 'Atal Pension Yojana (APY)' (as published in the Gazette of India, Extraordinary, Part I, Section 1, vide number F. No. 16/1/2015-PR dated the 16th October, 2015) as a pension scheme for the purposes of the said section.

COMPETITION COMMISSION OF INDIA NOTIFIED IN RESPECT OF SPECIFIED INCOME ARISING TO THE SAID COMMISSION

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 08/2016 dated 19.02.2016** has notified Competition Commission of India (a Commission established under sub-section (1) of section 7 of the Competition Act, 2002 (12 of 2003)) in respect of the following specified income arising to the said Commission, namely:-

(a) amount received in the form of Government grants;

(b) fees received under the Competition Act, 2002; and

(c) interest accrued on Government grants and interest accrued on fees received under the Competition Act, 2002.

2. This notification shall be effective provided the Commission does not engage in any commercial activity, the nature of its specified income remains unchanged throughout the financial years and it files its income tax return in accordance with section 139(4c)(g) of the Income-tax Act, 1961.

3. The notification shall be applicable for the specified income for the financial years 2016-2017 to 2020-2021.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

DELHI

TIME PERIOD FOR RECTIFICATION/REVSION FOR RETURN IN FORM GE-II FURTHER EXTENDED TO 07.03.2016

OUR COMMENTS: The Department of Trade & Taxes, Government of National Capital Territory of Delhi vide **Notification No. F.3(619)/Policy/VAT/2016/1496-1506 dated 25.02.2016** has directed that the returns in Form GE-II for the first 3 quarters of the FY 2015-16 (i.e. 1st April, 2015 to 30th June, 2015; 1st July, 2015 to 30th September, 2015 and 1st October, 2015 to 31st December, 2015) are required to be filed by 7th March, 2016.

ODISHA

MODIFICATION IN FORM VAT-201 DUE TO CHANGE IN RATE OF TAX

OUR COMMENTS: The Commissioner of Commercial Taxes, Government of Odisha vide **Notification No. III(III)122/06(V-III)2985/CT dated 20.02.2016** has modified the return form in Form VAT-201 for change in rate of tax from 13.5% to 14.5% and on "IMFL" under Schedule-C from @25% to 35% (vide Notification No. 80-FIN-CT1-TAX-0020-2015, dated 01.01.2016 and Notification No. 276–FIN-CT1–TAX–0020–2015, dated 04.01.2016 respectively) in order to enable the dealers to file return for the tax periods beginning on and after 01.01.2016.

PUNJAB

AMENDMENT IN RULE 52 ALLOWING REFUND TO 'GAU-SHALA'

OUR COMMENTS: The Department of Excise & Taxation, Government of Punjab vide **Notification No.G.S.R.12/P.A.8/2005/S.70/Amd.(57)/ 2016 dated 10.02.2016** has amended Rule 52 and allowed Gau-shala listed in the Schedule 'G' to get refund of tax up to Rs. 3 lacs every year on all purchases meant for such Gau-shala.

In case of new Gau-shala, refund shall be allowed for up to Rs. 5 lacs on the purchases made for, construction material and other goods meant for such Gau-shala in the first year after which it will be treated as old Gau-shala only.

ADVANCE TAX RATE ON SARSON AND BINOLA KHAL REDUCED

OUR COMMENTS: The Department of Excise & Taxation, Government of Punjab vide **Notification No.S.O.4/P.A.8/2005/S.6/2016 dated 02.02.2016** has amended Notification No. S.O.90/P.A.8/2005/S.6/2013, dated 04.10.2013 and reduced the advance tax rate on sarson and binola khal to 2%.

UTTARAKHAND

CHANGE IN TAX RATE ON BRICKS

OUR COMMENTS: The Finance Section-8, Government of Uttarakhand vide Notification **No.133/2016/01(A)(120)/XXVII(8)/ 2001 dated 11.02.2016** has amended Schedule-II(B) of the Uttarakhand Value Added Tax Act, 2005 and changed the tax rate on bricks to 5 % or Rs. 250/thousand, whichever is more.