59TH ISSUE

13 MAR 2016 - 19 MAR 2016

TAX CONNECT

GST

SERVICE TAX

CENTRAL EXCISE

CUSTOMS

INCOME TAX

STATE TAXES

JAV & ASSOCIATES

Chartered Accountants

Kolkata:
1, Old Court House Corner
"Tobacco House" 1st Floor
Room No.-13 (North)
Kolkata-70001
West Bengal

Vadodara:
Quarter no. 3/174
Gujarat Refinery Township
Jawaharnagar
Vadodara-391320
Gujarat

Contact:
+919331042424; +91931594980;
+918697575185; +913322625203

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

EDITORIAL

Friends

The Bengal Chamber of Commerce and Industry (BCC&I) is organizing an Interactive Session on **"Ease of Doing Business" on Friday, 18th March, 2016** from 3.00 p.m. at the Chamber premises. Shri S. K. Panda, IRS, Chief Commissioner of Service Tax shall be the Keynote Speaker. Other departmental officers are also going to be present. The objective of the Interactive Session is to discuss and to address the various issues of the stakeholders related to Service Tax. Members are requested to take advantage of this very important session.

Further, the CCST is also holding the **Regional Advisory Committee Meeting** in which stakeholders are being represented to raise their issues w.r.t. Service Tax. We from The Indirect Tax Committee of BCC&I are raising the issue of **"Non Surrender of Service Tax Registrations over the previous few years and the consequent harassment faced by small enterprises".** You are also requested to kindly share your suggestions if any which may be raised by us in the RAC.

Further in Service Tax, The CBEC, vide Notification No. 20/2016-Service Tax, dated 08.03.2016, has amended Form ST-3 under Service Tax Rules, 1994 for incorporating entries related to Swachh Bharat Cess. The excel utility should also be available soon.

In Income Tax, The CBDT, vide Circular dated 07.03.2016, has revised the timeline for verification of arrear of demand u/s245 to clear the pendency of refunds the timeline of 30 days for the assessee and the Assessing Officer specified in the O.M. dated 29-1-2016 may be reduced to 15 days with regard to the notices u/s 245 to be issued in the balance period of the current financial year.

In WB VAT, dealers are also to please take note that the last date to furnish online reconciliation for the financial year 2014-15 is now 21.03.2016. To avoid last minute rush, the same may ideally be complete this week itself.

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

Truly Yours

Timir Baran Chatterjee

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

Vivek Jalan

FCA, CIDT (ICAI), B. Com

INDEX

COMPLIANCE CALENDAR

DUE DATE	COMPLIANCES FROM 13th March, 2016 to 19th March, 2016	STATUTE
14th March, 2016	Deposit of VAT of previous month	Rajasthan VAT Act
	Deposit of Entry tax of previous month	Rajasthan VAT Act
15th March, 2016	Deposit of VAT of previous month	Bihar VAT Act Haryana (if Tax> Rs. 1 lac) VAT Act Jharkhand VAT Act Kerala VAT Act Sikkim VAT Act
	Filing of monthly/quarterly VAT return	Kerala VAT Act (Monthly)
	VAT Audit	Maharashtra VAT Act
	Deposit of WCT of previous month	Bihar VAT Act Chandigarh VAT Act Delhi VAT Act Haryana VAT Act Jharkhand VAT Act Punjab VAT Act Rajasthan VAT Act Himachal Pradesh VAT Act
	Filing of monthly/quarterly WCT return	Punjab VAT Act (Monthly)
	Issuance of monthly/quarterly WCT certificate	Haryana VAT Act (Monthly) Jharkhand VAT Act (Monthly) Himachal Pradesh VAT Act (Monthly)
	PF deposit of previous month	EPF Act
	Deposit of Ptax of previous month	Sikkim VAT Act Gujarat VAT Act
	Deposit of Entry tax of previous month	Bihar VAT Act
	Advance income-tax for 4th quarter	Income-Tax Act

Interactive Session on
"Ease of Doing Business"
Friday, 18th March 2016 at 3.00 p.m.
The Bengal Chamber of Commerce and Industry
6, Netaji Subhas Road, Kolkata – 700001

The Bengal Chamber of Commerce and Industry (BCC&I) is organizing an Interactive Session on **"Ease of Doing Business" on Friday, 18th March, 2016 from 3.00 p.m. at the Chamber premises.**

Shri S. K. Panda, IRS, Chief Commissioner of Service Tax has kindly agreed to join us as our **Chief Guest and Keynote Speaker .**

The objective of the Interactive Session is to discuss and to address the various issues of the stakeholders related to Service Tax. Besides, the Interactive Session would help us to draft a proper Action Plan which would help the stakeholders in smooth running of their respective business operations.

Members are requested to take advantage of this very important session and kindly spare some time to attend the Interactive Session and provide your valuable inputs/suggestions in the forum. **You are also requested to send your queries on Service Tax in advance by 12th March, 2016.** Please do also nominate representatives from your organization to attend the programme.

For purposes of registration, you are requested to fill up the enclosed Ready Reply Form and send the same back to us.

Looking forward to receiving your kind confirmation.

For any further clarification(s), you are requested to kindly be in touch with Ms Sarbani Sett at +91-9831430781 or email at sarbani@bengalchamber.com

Thanking you,

Yours faithfully,

Subhodip Ghosh
Director General Designate

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS

The provisions relating to payment of tax, penalty, interest and other amounts covered in CHAPTER X of the model GST Act can be summarized as follows:

Payment of tax, penalty, interest and other amounts

- Every deposit made towards tax, interest, penalty, fee or any other amount shall be credited to the electronic cash ledger of the tax payer.
- The self-assessed input tax credit in the return shall be credited to the electronic credit ledger.
- The tax, interest, penalty, fee or any other amount payable shall be paid by debiting the electronic cash or credit ledger.
- After fully utilizing the electronic [cash and] credit ledgers, the balance available in the credit ledger under IGST Act may be utilized to pay the tax dues under this Act.
- Such balance shall belong to the taxable person and not be construed as a part of the consolidated fund of the State/India.
- If the electronic cash or the credit ledger falls short of the amount due, the said amount shall be debited in the following order:

  (a) interest liability related to returns of previous tax periods;

  (b) tax liability related to returns of previous tax periods;

  (c) tax liability of the current tax period; and

  (d) any other amount payable under the Act including the demand determined under section 20.

- Input tax credit under the CGST Act can be utilised for payment of tax under the IGST Act
- Input tax credit under the SGST Act can be utilised for payment of tax under the IGST Act.

  In this case, the State Government shall pay the utilized amount to the Central Government.

- On an application filed by a taxable person, the Commissioner/Chief Commissioner may extend the time for payment or allow payment of any amount due in monthly installments (not exceeding 12), subject to payment of interest under section 21.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

SERVICE TAX

NOTIFICATIONS/CIRCULARS

AMENDMENT IN FORM ST-3 FOR INCORPORATING SWACHH BHARAT CESS

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 20/2016-Service Tax, dated 08.03.2016** has **amended Form ST-3 under Service Tax Rules, 1994** for incorporating entries related to Swachh Bharat Cess.

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

COURT DECISIONS

M/S SITEL INDIA LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, MUMBAI II [CESTAT MUMBAI]

BRIEF: If the absence of any service adversely impacts the quality and efficiency of the provision of the output service, the same is to be considered as input services.

Accordingly, Health Club and Fitness Center, Transport Goods by Road and Electricity Expenses services qualifies as input services for a BPO and cenvat credit for the service tax paid on such services shall be allowed.

OUR COMMENTS: In the above case, the assessee is a BPO Outfit engaged in the provision and export of various services namely Business Auxiliary Services, Business Support Services, Manpower Recruitment Agency and Information Technology Software Services. They have filed various refund claims of accumulated Cenvat Credit of various services (under Rule 5 of Cenvat Credit Rules 2004) like **Health Club and Fitness Center, Transport Goods by Road and Electricity Expenses** services.

However, the Revenue disallowed the Cenvat Credit in respect of these services on the ground that these services do not fall under the definition of input service.

The Hon'ble CESTAT held that:

- In the BPO services the employess are required to perform their duties on 24x7 basis which adversely affects their health and then directly affects the performance of the services. The health and fitness of the employees is very essential for a BPO company.

  As per CBEC Circular No. 1201/01/2010-ST dt. 19.01.2010, in case the absence of any service adversely impacts the quality and efficiency of the provision of service, the same is to be considered as input services.

  Therefore, health and fitness services availed by the company for their employee is a necessity for providing the better quality of output service and included in the definition of input services.

- The transportation was used in the BPO for the various activities such as transportation of equipment like computers etc. and there is no evidence available that transport service was used for transporting the household goods of employees. Therefore, these services are input services.

- The services like repair, maintenance, electricity are directly used by the BPO service provider in order to carry out their day-to-day business activity. Therefore, included in the definition of input services.

As all the three services are input services, the Cenvat credit is allowed and are entitled for the refund of Service tax.

[Decided in favor of assessee]

CENTRAL EXCISE

COURT DECISIONS

POLYPLASTICS INDUSTRIES (INDIA) PVT. LTD. VERSUS CCE & ST, PANCHKULA [CESTAT NW DELHI]

BRIEF: An assessee is entitled to avail Cenvat credit on the inputs or capital goods if those goods have suffered duty and received in the factory of manufacture of final product. Ownership or control of capital goods by the assessee is not a decisive factor for determination of eligibility to Cenvat credit.

OUR COMMENTS: In the above case, the assessee is engaged in the manufacture of different automobile parts. He availed cenvat credit of Central Excise duty paid on moulds, treating the same as capital goods.

The Central Excise Department verified the invoices issued by the assessee and found out that the cost of moulds purchased from open market was recovered by the assessee from the customers of automobile parts. Hence, denied the Cenvat benefit under Rule 3 (5) of the Cenvat Credit Rules, 2004 which provides that when the Cenvat availed inputs or capital goods are removed from the factory an amount equal to the cenvat credit availed shall be paid by the assessee.

The Department contended that since the ownership/title of the mould has been transferred to the buyers, cenvat credit cannot be allowed.

The assessee contended that the moulds purchased from the market have been installed in the factory for manufacture of the automobile parts and have not been removed from the factory, Therefore, Rule 3 (5) of the rules will have no application for reversal of the cenvat credit.

The Hon'ble CESTAT held that since, moulds, have not been removed from the factory by the assessee denial of cenvat benefit by the authorities below is not justified.

Further, ownership or control of capital goods by the assessee is not a decisive factor for determination of eligibility to Cenvat credit.

As per the statutory provisions, an assessee is entitled to avail Cenvat credit on the inputs or capital goods, upon fulfilment of the condition that those goods have suffered duty and received in the factory of manufacture of final product.

In the present case, since the requirement of the Cenvat statute has been duly complied with by the appellant, denial of Cenvat credit on moulds is not justified.

Accordingly, the impugned order was set aside.

[Decided in favor of assessee]

COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX BANGALORE-I VERSUS INDIAN TELEPHONE INDUSTRIES LTD [CESTAT BANGALORE]

BRIEF: An assessee is entitled for adjustment of excess paid duty with the short-paid duty during the period of provisional assessments, upon finalization of the assessments.

OUR COMMENTS: In the above case, the assessee is a manufacturer of communication equipments and sells their goods to the Department of Telecommunication, Government of India against contracts. As per the price variation clause in the contract, the price of the goods was to be finalized only after their clearances. Accordingly, the assessee opted for provisional assessment which was granted by the Department.

As a result of finalization of provisional assessment, there were certain short payments by the assessee and certain excess payments. The Revenue authorities demanded short-paid duty and advised to follow the procedure of filing a refund claim under Section 11B of the Central Excise Act, 1944 for the excess-paid duty.

The Hon'ble CESTAT held that the assessee is entitled for adjustment of excess paid duty with the short-paid duty during the period of provisional assessments, upon finalization of the assessments.

The appeal of the Revenue was accordingly, dismissed.

[Decided in favor of assessee]

CUSTOMS

NOTIFICATIONS/CIRCULARS

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. 36/2016-Customs (N.T.) dated 03.03.2016 & in supersession of Notification No. 29/2016-Customs (N.T.) dated 18.02.2016** 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. **04.03.2016** 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	49.95	48.55
2.	Bahrain Dinar	184.35	173.70
3.	Canadian Dollar	50.85	49.80
4.	Danish Kroner	9.95	9.70
5.	EURO	74.10	72.30
6.	Hong Kong Dollar	8.75	8.60
7.	Kuwait Dinar	230.75	218.05
8.	New Zealand Dollar	45.70	44.35
9.	Norwegian Kroner	7.90	7.70
10.	Pound Sterling	96.05	93.90
11.	Singapore Dollar	48.90	47.90
12.	South African Rand	4.45	4.20
13.	Saudi Arabian Riyal	18.50	17.50
14.	Swedish Kroner	7.95	7.75
15.	Swiss Franc	68.50	66.80
16.	UAE Dirham	18.90	17.85
17.	US Dollar	68.00	66.95
18.	Chinese Yuan	10.45	10.20

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	59.90	58.55
2.	Kenya Shilling	68.40	64.65

INDIA-ASEAN TRADE IN GOODS AGREEMENT (SAFEGUARD MEASURES) RULES, 2016

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 37/2016-Customs (N.T.) dated 04.03.2016** has made the rules called the India-ASEAN Trade in Goods Agreement (Safeguard Measures) Rules, 2016.

The rules primarily relate to the duties of Director General and the principles governing investigation by the Director General.

The rules shall come into force on the date of their publication in the Official Gazette.

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

INCOME TAX

NOTIFICATIONS & CIRCULARS

DEPRECIATION TO BE 15% ON WDV FOR CERTAIN CATEGORY OF OIL WELL

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 13/2016 dated 03.03.2016** has amended Income tax Rules, 1962 and inserted the following entry in:

New APPENDIX I (TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE - TANGIBLE ASSETS - MACHINERY AND PLANT - Mineral oil concerns)

- (c) Oil wells not covered in clauses (a) and (b) – Depreciation @ 15%

CLARIFICATION REGARDING TAXABILITY OF CONSORTIUM MEMBERS

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 07/2016 dated 07.03.2016** has issued a clarification on whether consortium of contractors (formed to implement large infrastructure projects, particularly in Engineering, Procurement and Construction ('EPC') contracts and Turnkey Projects) shall be treated as an Association of Persons ('AOP') i.e. a separate entity for charging tax.

The term AOP has not been specifically defined in the Income-tax Act, 1961 ('Act'). Hence, to avoid tax-disputes and to have consistency in approach, the Board has decided that a consortium arrangement for executing EPC/Turnkey contracts which has the following attributes may not be treated as an AOP.

- There is a clear demarcation in the work and costs between the consortium member and each member incurs expenditure only in its specified area of work;
- each member earns profit or incurs losses, based on performance of the contract falling strictly within its scope of work.
- the men and materials used for any area of work are under the risk and control of respective consortium members;
- the control and management of the consortium is not unified

There may be other additional factors also depending upon the specific facts and circumstances of a particular case.

This Circular shall not be applicable in cases where all or some of the members of the consortium are Associated Enterprises within the meaning of section 92A of the Act.

REVISED TIMELINE FOR VERIFICATION OF ARREAR OF DEMAND U/S 245 OF INCOME TAX ACT 1961

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular dated 07.03.2016** has revised the timeline for verification of arrear of demand u/s245.

It has been decided that in order to clear the pendency of refunds the timeline of 30 days for the assessee and the Assessing Officer specified in the **O.M. dated 29-1-2016 may be reduced to 15 days** with regard to the notices u/s 245 to be issued in the balance period of the current financial year.

This is a one-time measure to clear the backlog of refunds and accordingly the reduced timeline of 15 days shall be valid only till 31-3-2016.

STATE TAXES

UTTAR PRADESH

AMENDMENT IN UPVAT SCHEDULE-I - L.E.D. BULB

OUR COMMENTS: The Sansthaghat Vitta, Kar Evam NIbandhan Anubhag – 2, Uttar Pradesh Shashan vide **Notification No.- KA.NI.-2-319/XI-9(135)/13-U.P.Act-5-2008-Order-(151)-2016 dated 03.03.2016** has amended Schedule – I to Uttar Pradesh Value Added Tax Act, 2008 and inserted the words "L.E.D. Bulb" in the entry at serial number 13 in the Schedule-I listing exempted goods.

SUGAR MANUFACTURED DURING THE CRUSHING SEASON 2015-16 EXEMPTED FROM TAX

OUR COMMENTS: The Sansthaghat Vitta, Kar Evam NIbandhan Anubhag – 2, Uttar Pradesh Shashan vide **Notification No.- KA.NI.-2-320/XI-9(81)/91-U.P.Act-30-07-Order-(152)-2016 dated 03.03.2016** has exempted sugar manufactured during the Crushing Season 2015-16 by a Sugar Mill established in the State of Uttar Pradesh from tax subject to the following conditions:

(i) The manufacturer shall issue a certificate to the purchasing dealer that the sugar sold has been manufactured during the Crushing Season 2015-16 and is exempt from of tax.

(ii) The purchasing dealer shall not pay tax on such sugar to the above manufacturer;

(iii) The purchasing dealer shall issue prescribed declaration as envisaged in sub-rule (1) of rule 5 of the Uttar Pradesh Tax on Entry of Goods into Local Areas Rules, 2008 to the subsequent purchaser, if any.

UTTARAKHAND

CHANGES IN RESPECT TO LORRY CHALLAN IN SECTION 43 OF VAT

OUR COMMENTS: The Government of Uttarakhand vide **Notification NO. 126/2016/03(120)/XXVII(8)/2016 dated 03.03.2016** has direct that every transporter who intends to transport goods,

- from any place in the State to any place outside State or,
- from any place in the State to any other place in the State or,
- from any place in the State to any other place in the State passing through any other State,

shall prepare a Lorry Challan for such goods and of such Quantity or measure or value as may be specified by the Commissioner by a general order in writing.

WEST BENGAL

LAST DATE TO FURNISH RECONCILIATION OF SALE-PURCHASE MISMATCH FOR THE FINANCIAL YEAR 2014-15 EXTENDED TO 21.03.2016

OUR COMMENTS: The Directorate of Commercial Taxes, Government of West Bengal vide **Circular No. 01/2016 dated 29.02.2016** has decided to extend the last date to furnish online reconciliation for the financial year 2014-15 from 29.02.2016 to 21.03.2016, though the dealers with unreconciled mismatched transactions may be selected in the meantime for verification of returns or special audit under section 42 or section 43A of the West Bengal Value Added Tax Act, 2003, if such mismatch transactions remain unreconciled.