61ST ISSUE

27 MAR 2016 - 02 APR 2016

TAX CONNECT

GST	
SERVICE TAX	CENTRAL EXCISE
CUSTOMS	INCOME TAX
	STATE TAXES

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EDITORIAL

Friends

We are now on the last week of yet another Financial Year. This is a time when all our advance taxes, to the extent not paid earlier, need to be calculated and paid. The due date for filing belated income tax return also expires on 31st March. This is also the time when revenue departments are also under pressure of collection.

Dealers in WB are getting mails from The Commercial Taxes Dept for payment of Advance Tax by 28th March. Many dealers have a query as to whether this mail needs to be complied with. **In this regard we would like to clarify that such payment of advance tax is statutorily mandated u/r 42 of WB VAT Rules and hence dealers are advised to comply with the same.**

Another mail which dealers have received from Commercial Taxes Dept. in WB is to pay Professional Tax. Again, many dealers have queries as to whether the P. Tax EC payment for FY 2016-17 needs to be made. In this regard we would like to clarify that the **due date for P Tax EC payment for FY 2016-17 is 31st July 2016 and the same needs to be paid accordingly.**

In Central Excise, the tryst of jewelers against the levy of Excise on jewellery manufacture continues. We would like to point out a few very important procedures to be completed **NOW** in this regard -

1. The liability of excise on jewelers starts from 1st March 2016 though some procedural relaxations are provided to the Jewellery segment.
2. Subject to specific situations it may be better to go for the simple option of 1% duty payment without Cenvat credit, especially for SMEs.
3. The following bifurcation of stock needs to be done-
   a. Where there is no duty liability: The stock of goods manufactured prior to 1.3.16 and already removed from factory.
   b. Where there is duty liability: Goods manufactured prior but in factory
   c. Goods manufactured by others prior to and after 1st march.
   d. Where there is duty liability in hands of the sender – Principal: The goods sent on job work
   e. The goods received on job work would require to be bifurcated.

   A certificate of a professional may be availed to avoid litigation in future.
4. Further, **an initial declaration letter with the department should be filed,** disclosing the detailed activities, books of account, procedures followed for job work received, job work given, stock records maintained, credit mechanism (if any), option opted etc.

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

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COMPLIANCE CALENDAR

Due date	COMPLIANCES FROM 27th March, 2016 to 2nd April, 2016	STATUTE
28th March, 2016	Deposit of VAT of previous month	Arunachal Pradesh VAT Act
	Filing of monthly/quarterly VAT return	Arunachal Pradesh (Monthly, if turnover>Rs. 1 crore)
30th March, 2016	Deposit of VAT of previous month	Chattisgarh VAT Act Haryana VAT Act (if Tax< Rs. 1 lac) Madhya Pradesh VAT Act Punjab VAT Act (if payment otherwise than by cheque) Tripura VAT Act Himachal Pradesh VAT Act Goa VAT Act (if Tax < Rs. 1 lac)
	Filing of monthly/quarterly VAT return	Himachal Pradesh VAT Act (Monthly, if PY turnover is>Rs 5 cr)
	Deposit of WCT of previous month	Goa VAT Act (Monthly, if Tax< Rs. 1 lac))
	Filing of monthly/quarterly WCT return	Rajasthan VAT Act (Monthly)
	Deposit of Entry tax of previous month	Chattisgarh VAT Act Madhya Pradesh VAT Act Maharashtra VAT Act (For unregistered dealers) Goa VAT Act
31st March, 2016	Deposit of VAT of previous month	Mizoram VAT Act Jammu & Kashmir VAT Act Odisha VAT Act (for tax upto 25th March)
	Filing of monthly/quarterly VAT return	Tripura Vat Act (Monthly/Quarterly)
	VAT Audit	Rajasthan VAT Act Goa VAT Act
	Filing of monthly/quarterly WCT return	Bihar VAT Act (Monthly) Chandigarh VAT Act (Monthly) Tamil Nadu VAT Act (Monthly)
	Issuance of WCT certificate	Assam VAT Act (Monthly)
	Deposit of P tax of previous month	Maharashtra VAT Act
	Deposit of Entry tax of previous month	Assam VAT Act
	Filling of belated or revised income-tax return in some cases	Income Tax Act
	Service Tax deposit of March month (Company/ Society)	Finance Act
	Service Tax deposit of 4th quarter (Individual/ Partnership firm)	Finance Act

REPORT OF SUB COMMITTEE - II ON MODEL GST ACT, 2016: ASSESSMENT

The provisions relating to "Assessment" covered in CHAPTER XI of the model GST Act can be summarized as follows:

Assessment

- **Self-Assessment**

  Every assessee shall self assess the taxes payable and furnish a return as per section 36.

- **Scrutiny of returns**

  The proper officer may scrutinize the return and enquire for the discrepancies noticed, if any.

  If the assessee fails to furnish explanation or does not provide satisfactory explanation, the officer may initiate appropriate action including those u/s 54, 55 or 68, or proceed to determine the tax and other dues u/s 20A(6) or 20B(6).

- **Assessment of non-filers of returns**

  If the assessee fails to furnish his return even after issue of a notice, the proper officer may perform a best judgement assessment and issue an assessment order.

  The assessee shall file a valid return within 30 days of the order.

- **Assessment of unregistered persons**

  Where a taxable person fails to obtain registration, the proper officer may perform a best judgement assessment, assess his tax liability for the relevant tax periods and issue an assessment order after giving a show cause notice and a reasonable opportunity of being heard.

- **Summary assessment in certain special cases**

  In order to protect the interest of revenue, the proper officer after complying with the principles of natural justice may assess the tax liability of a person and issue an assessment order (on sufficient grounds and evidence showing tax liability of the person) with previous permission of Additional/Joint Commissioner.

  If the liability pertains to supply of goods and the liable person is not ascertainable, the person in charge of such goods shall be deemed to be the liable person.

THIS SPACE HAS BEEN INTENTIONALLY KEPT VACANT

SERVICE TAX

COURT DECISIONS

AMRL HITECH CITY LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE & ST TIRUNELVELI [CESTAT CHENNAI]

BRIEF: Input services i.e. Company Secretary Service, Chartered Accountant service , Security service, Legal Consultancy service, ITS service, GTA service are eligible for refund under Rule 5 of CCR (read with Notification No.12/2003)

OUR COMMENTS: In the above case, the assessee is registered as Multi Product Special Economic Zone (MPSEZ) and claimed the refund of credit paid on various input services under Rule 5 of CCR.

The Revenue issued show cause notice and denied refund claim on the services viz. Company Secretary Service, Chartered Accountant Service, Security Service, Legal Consultancy services etc. on the ground that no evidence was available supporting that these services were used towards authorized operation of SEZ.

The Hon'ble CESTAT noted that the invoices clearly show that fees have been paid for the appeal suit and that the assessee has remitted the service tax under reverse charge under the services of legal consultancy service. Bills and remittances of service tax clearly confirms that he being a developer of AMRL Hi-Tech City has to fight legal case and the input services in dispute were used as authorized operation of SEZ as a developer.

Therefore, the assessee is eligible for refund under Rule 5 of CCR read with Notification No.12/2003 as amended on the input services i.e. Company Secretary Service, Chartered Accountant service , Security service, Legal Consultancy service, ITS service, GTA service.

[Decided in favour of assessee]

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX LTU, DELHI VERSUS HONDA SIEL CARS INDIA LTD [CESTAT NEW DELHI]

BRIEF: No tax liability arises under Business Auxiliary Services on money received towards extended warranty.

OUR COMMENTS: In the above case, the assessee is a manufacturer of automobiles. They offer the car purchasers with the option of extended warranty for 1 or 2 years in continuation of the original warranty. This is done through the dealer network and is included in the purchase package for which the assessee allows the dealer to retain the agreed upon commission from the amount paid by the customer. The dealer rectifies and repairs faults that may arise in the vehicles and raises debit notes on the assessee.

The Revenue issued a show cause notice and demanded service tax on the same classifying the same under Business Auxiliary Service.

The Hon'ble CESTAT held that the assessee is a professional car manufacturer. He need not necessarily be considered a professional in rendering other services while offering extended warranty which as an after-sales package. And that explains the reason for a dealer network of professionals to render those services in which the manufacturer is deficient.

The service in question is rendered by the dealer only if and when such defect exists in a car. Mere coverage by the extended warranty scheme does not itself create an intention to use the service of the dealer.

Therefore, the definition of 'business auxiliary service' supra is accordingly not amenable to describe the purchaser in relation to the assessee.

[Decided against Revenue]

CENTRAL EXCISE

NOTIFICATIONS/CIRCULARS

CONSTITUTION OF SUB-COMMITTEE OF THE HIGH LEVEL COMMITTEE REGARDING IMPOSITION OF CENTRAL EXCISE DUTY ON JEWELLERY

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No 1021/9/2016-CX dated 21.03.2016** has been decided to constitute a Sub-Committee of the High Level Committee to Interact with Trade & Industry on Tax Laws regarding imposition of Central Excise duty at the rate of 1% (without input tax credit) and 12.5% (with input tax credit) has been imposed on all articles of jewellery (except for silver jewellery, other than those studded with diamond, ruby, emerald or sapphire) in the budget 2016-17.

The committee will consist of **3 representatives of the trade, 1 legal expert , officer concerned from the Ministry of Commerce & Industry and high level officials from the central excise department.**

All associations will be given an opportunity to submit representation before the subcommittee in writing and the all India associations to state their case in person.

The registration with the central excise department can be taken within 60 days from 1st March, 2016. However, the liability for payment of duty will be with effect from 1st March, 2016. The payment of excise duty for March, 2016 can be made along with excise duty for April, 2016.

COURT DECISIONS

PETALS ENGINEERS PVT LTD. VERSUS COMMISSIONER OF CUSTOMS & CENTRAL EXCISE, GOA [CESTAT MUMBAI]

BRIEF: Integration and commissioning charges of the machines cannot be included in the transaction/assessable value of the machines.

OUR COMMENTS: In the above case, the assessee raises two invoices:

- one is towards sale of the machines and
- second for integration and commissioning of the machines supplied to the customers.

The assessee use to pay excise duty on the transaction value in the first invoice.

However, the Revenue contended that integration and commissioning charges of the machines shall be included in the transaction/assessable value of the machines and demanded excise duty on the second invoice as well.

The Hon'ble CESTAT held that integration and commissioning is an independent activity which can be performed either by the seller of machines or any outside agency. The charges recovered towards integration and commissioning charges is not related to the sale of the goods but it is for independent and distinct identified activity. Once the goods are fully manufactured and cleared from the factory activity of erection installation carried out subsequently the charges therefore cannot be included in the assessable value.

Accordingly, installation/erection/commissioning charges at site of the customer is not includible in the assessable value.

[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. 41/2016-Customs (N.T.) dated 17.03.2016 & in supersession of Notification No. 36/2016-Customs (N.T.) dated 03.03.2016** 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. **18.03.2016** 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	51.60	50.30
2.	Bahrain Dinar	182.85	172.35
3.	Canadian Dollar	51.65	50.60
4.	Danish Kroner	10.20	9.95
5.	EURO	76.05	74.20
6.	Hong Kong Dollar	8.70	8.55
7.	Kuwait Dinar	229.00	216.35
8.	New Zealand Dollar	46.00	44.65
9.	Norwegian Kroner	8.00	7.80
10.	Pound Sterling	96.60	94.45
11.	Singapore Dollar	49.50	48.45
12.	South African Rand	4.40	4.15
13.	Saudi Arabian Riyal	18.35	17.35
14.	Swedish Kroner	8.25	8.05
15.	Swiss Franc	69.35	67.60
16.	UAE Dirham	18.75	17.70
17.	US Dollar	67.45	66.40
18.	Chinese Yuan	10.40	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	60.15	58.80
2.	Kenya Shilling	67.90	64.10

CLARIFICATION REGARDING OTHER PERSON (CO-NOTICEES) USED IN SUB-SECTION (2) & SUB-SECTION (6) OF SECTION 28 OF THE CUSTOMS ACT 1962

OUR COMMENTS: The CBEC, Dept. of Revenue, Ministry of Finance, Government of India vide **Circular No. 11/2016-Customs dated 15.03.2016** has issued clarification in respect of "other person" used in Section 28(2) & 28 (6).

In the section 28, provision of deemed conclusion of proceedings was introduced to bring about closure to the cases where the Government dues could be realized without going through the process of adjudication and to cut the protracted litigation which generally follows the adjudication.

In the aforesaid sub-sections, other persons implies person(s) to whom no demand of duty is envisaged with notice served under section (1) or sub-section (4).

Also, other persons who happen to be co-noticees in the SCN for their acts of commission or omission other than demand of duty would be benefitted by the deemed closure in cases where the conditions in the sub-sections have been fulfilled by the main notice.

All such cases which involve duty, interest and/or payment of penalty shall be covered by the above clarification.

INCOME TAX

NOTIFICATIONS & CIRCULARS

GUIDELINES FOR IMPLEMENTATION OF TRANSFER PRICING PROVISIONS: IN REPLACEMENT OF INSTRUCTION NO. 15/2015

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India **vide Instruction No. 3/2016 dated 10.03.2016** has issued instructions for implementation of transfer pricing provisions.

As per the provisions any income arising from an international transaction or specified domestic transaction between two or more associated enterprises shall be computed having regard to the Arm's Length Price. In order to provide guidance to the Transfer Pricing Officers (TPOs) and the Assessing Officers (AOs) and to incorporate legislative, procedural and structural changes **Instruction No. 3 was issued on 20.05.2003 and Instruction No. 15/2015 was issued on 16.10.2015.**

This Instruction is being issued to replace Instruction No. 15 of 2015 which is applicable for both international transactions and specified domestic transactions between associated enterprises.

The readers may refer the aforesaid instruction.

RULES IN RESPECT OF OFFSHORE FUND MANAGER REGIME UNDER SECTION 9A OF THE INCOME-TAX ACT, 1961

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 14/2016 dated 15.03.2016** has made new rules in respect of offshore fund manager regime called the Income-tax (5th Amendment) Rules, 2016.

In the Income-tax Rules, 1962, after rule 10UC the following rules shall be inserted**.**

10V. Guidelines for application of section 9A

10VA. Approval of the fund.

10VB. Statement to be furnished by the fund

And, In Appendix II to the said rules, after Form No. 3CEH, the following Forms shall be inserted, namely:-

FORM No. 3CEJ

Report from an accountant to be furnished for purposes of section 9A relating to arm's length price in respect of the remuneration paid by an eligible investment fund to the fund manager.

FORM No. 3CEK

Annual Statement under section 9A of the Income-tax Act, 1961

METHOD OF DETERMINATION OF PERIOD OF HOLDING OF SHARE OR DEBENTURE OF A COMPANY IN THE CIRCUMSTANCES MENTIONED IN CLAUSE (X) OF SECTION 47

OUR COMMENTS: The CBDT, Dept. of Revenue, Ministry of Finance, Government of India vide **Notification No. 18/2016 dated 17.03.2016** has made new rules called the Income-tax (6th Amendment) Rules, 2016.

In the Income-tax Rules, 1962, after rule 8A, the following rule shall be inserted, namely:-

"8 AA. Method of determination of period of holding of capital assets in certain cases"

As per the rule, in the case of a capital asset, being a share or debenture of a company, which becomes the property of the assessee in the circumstances mentioned in clause (x) of section 47 of the Act, the period for which the bond, debenture, debenture-stock or deposit certificate, was held by the assessee prior to the conversion shall be included.

CHATTISGARH

TIME FOR DISPOSAL OF ASSESSMENT CASES OF 2011-12 AND 2012-13 EXTENDED TO 31.05.2016 & 31.08.2016 RESPCTIVELY

OUR COMMENTS: The Commercial Tax Department, Government of Chattisgarh vide N**otification No. No. F-10-12/2016/CT/V (19) dated 22.03.2016** has amended **Notification No. F-10/78/2014/CT/V (86), dated 31.12.2014 & F-10-36/2015/CT/V (64), dated 30.09.2015** and extended the time for disposal of assessment cases of 2011-12 & 2012-13 to 31.05.2016 and 31.08.2016 respectively.

DELHI

EXTENSION OF SUBMISSION DATE OF FORM CR-II TO 31.03.2016

OUR COMMENTS: The Department of Trade & Taxes, Government of National Capital Territory of Delhi, **vide Notification No. F.3(628)/Policy/VAT/2016/PF/1658-70 dated 15.03.2016 has** partially modified **Notification No.F.3(628)/Policy/VAT/2016/1424-36 dated 11.02.2016 and No.F.3(628)/Policy/VAT/2016/PF/1572-1584 dated 01.03.2016,** has directed that the returns in Form CR-II for the first 3 quarters of the current financial year (i.e. 1st April, 2015 to 30th June, 2015, to 1st July, 2015 to 30th September, 2015 and 1st October, 2015 to 31st December, 2015) are required to be filed by 31.03.2016

EXTENSION OF SUBMISSION DATE OF FORM GE-II TO 23.03.2016

OUR COMMENTS: The Department of Trade & Taxes, Government of National Capital Territory of Delhi, **vide Notification No. F.3(619)/Policy/VAT/2016/1671-84 dated 15.03.2016 has** partially modified **Notification No. .3(619)/Policy/VAT/2016/1610-1623 dated 07.03.2016** and has directed that the returns in Form CR-II for the first 3 quarters of the current financial year (i.e. 1st April, 2015 to 30th June, 2015, to 1st July, 2015 to 30th September, 2015 and 1st October, 2015 to 31st December, 2015) are required to be filed by 23.03.2016.

GOA

EXTENSION IN PERIOD OF ASSESSMENT FOR THE FINANCIAL YEAR 2012-13 TO 30.04.2016

OUR COMMENTS: The Office of the Commissioner of Commercial Taxes, Department of Finance, Government of Goa vide **Notification No. CCT/12-2/15-16/5642 dated 14.03.2016** has extended the period of assessment for the financial year 2012-13 by 1 month w.e.f. 01.04.2016.

Therefore, all assessments for the year 2012-13 shall accordingly be completed on or before 30.04.2016.

UTTAR PRADESH

EXEMPTION TO SALE OF MACHINERY OPERATED BY CENT PERCENT BIO FUEL FOR 10 YEARS

OUR COMMENTS: The Sansthagat Vitta, Kar Evam Nibandhan Anubhag-2, Uttar Pradesh Shashan vide N**otification No.- KA.NI.-2-230/XI-9(205)/2014-U.P.Act.-5-2008-Order-(153)-2016 dated 14.03.2016** has directed that no tax shall be levied and paid under the Uttar Pradesh Value Added Tax Act, 2008 (U.P. Act no. 5 of 2008) on the turnover of sale of machinery operated by cent percent Bio Fuel in the State of Uttar Pradesh, for the period of ten years with effect from 12.09.2015.