ASC Times

All India Taxes Weekly Referencer

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From the CEO's Desk

Dear Reader,

Rather than leaving it to autopilot mode or at the mercy of municipal bodies, Modi government decided to appoint CEO's for the 'Smart City project'. According to the scheme rolled out, each smart city will have a special purpose vehicle (SPV). Similar like metro projects where managing directors are the sole in-charge of the project, the SPV's will have CEO's who will work full time for a fixed term of three years. The SPV will also have nominees of Centre and state governments besides representatives from urban local bodies.

Technology is fast changing and a smart person practically cannot live without a smart phone. I am sure all of you must be using various apps on your phone for different purposes. I want to list some of the apps by our government, which every Indian must have on their smart phones:

1. **Narendra Modi app**: The app is a step taken by PM to make himself accessible and to update information's about PMO.
2. **Ministry of External Affairs app**: The app provides information about ministry's services and activities and it is quite user-friendly app.
3. **Incredible India app**: This app is an effort by the tourism ministry to update domestic and international travelers about registered service providers, recommended places, warnings of fraud and approved travel agents.
4. **Govt. of India Calendar 2015**: Next time when you have to visit a government office and have a doubt please check before hand and don't waste your precious time landing at a government office only to find out that they are closed today.
5. **Swachh Bharat Abhiyaan**: The app lets users create a profile and take up challenges pertaining to cleanliness in particular areas. You can take challenges by location and also invite your friends to take up cleanliness challenges for their areas.
6. **My Gov app**: Touted as the killer app for Modi's Digital India campaign, MyGov's major aim is to include citizens in governance initiatives. MyGov is designed as a citizen engagement platform and citizens can log in and share their suggestions, feedbacks and ideas with central ministries and other government institutions.

Please use these apps and make your contribution as a citizen and don't just look from outside and be the spectators. Play the big game and see the difference.

Alok Kumar Agarwal
CEO
ASC Group.

TAX CALENDER

Due Date	Description	Law
12th July	Deposits of tax monthly by dealers engaged in sale of Schedule III goods	Gujarat VAT
13th July	Monthly return	Nagaland VAT
13th July	Return for Composite Dealer	Orissa VAT
14th July	Deposit of tax thrice in a month Monthly deposit of Tax Quarterly deposit of Tax	Rajasthan VAT
15th July	Deposit of Tax deducted at source and Issue Certificate	Punjab & Chandigarh VAT
15th July	Deposit of Tax	Madhya Pradesh VAT Sikkim VAT
15th July	Deposit of tax and Return filing	Karnataka VAT Kerala VAT
15th July	Deposit of TDS and issuance of TDS Certificate Monthly deposit of tax	Jharkhand VAT
15th July	Deposit of tax deducted at source and issuance of TDS Certificate	Himachal Pradesh VAT
15th July	Deposit of TDS monthly Deposit of admitted tax payable monthly/quarterly	Haryana VAT
15th July	Deposit of TDS	Delhi VAT
15th July	Return for Dealer	Excise Law
15th July	Issuance of TDS Certificate in C II	Bihar
15th July	Issuance of TDS certificate	Andhra Pradesh VAT
15th July	TDS/ TCS Return	Income Tax

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
13th July	Martyr's Day Bhanu Jayanti	Jammu & Kashmir Sikkim
14th July	Ramzan	Lakshadweep
15th July	Shab-I-Qadr	Jammu & Kashmir
17th July	Jamat-Ul-Vida U Tirot Sing day	Jammu & Kashmir Uttarakhand Meghalaya
18th July	Ramjan-Id (Id-Ul-fitra) (1st Shawaal) (Muslim, Shiya & Sunni) Ratha Yathra Kang (Rathajatra)	All States & UT's except Bihar, where it is a restricted holiday Andhra Pradesh Odisha Manipur

INDEX GUIDE

CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

JAPAN CENTRE VERSUS COMMISSIONER OF SERVICE TAX (CESTAT BENGLALORE)

BRIEF: Whether the appellant is liable to pay service tax on translation service and interpretation service provided by them.

OUR TAKE: The **Hon'ble CESTAT BENGLALORE** held that decision in the case of Mayflower Languages Service Pvt. Ltd. [2013 (10) TMI 1239 (CESTAT-Bang.)] would be applicable in respect of translation service. The only difference which we noticed in this case is in the case of Mayflower Languages Service Pvt. Ltd., they have taken expert opinion as to the liability and this was considered while passing the order. In this case there is no such claim made by the appellant. Nevertheless having regard to the fact that according to the learned CA the appellants are partnership firm and after 2006 the business is nowhere functioning and appellants have a financial difficulty, they can pay an amount of Rs 50,000/-. We consider that if the appellant deposits Rs 50,000/- that would be sufficient for hearing the appeal. Since the appeal has been dismissed for non-compliance with the Stay Order which required the appellant to deposit the entire amount of service tax and 50% of the penalty, and in our opinion deposit of Rs 50,000/- would be sufficient, we consider it appropriate that the matter should be remanded to the Commissioner (Appeals) to decide the appeal after the appellant deposits an amount of Rs 50,000/- without insisting on any further pre-deposit. [**Decided conditionally in favour of assessee**]

NOTIFICATIONS & CIRCULARS

The **Government of India vide Circular (F. No. 224/44/2014-CX.6), dated the 6th July, 2015** issued Instructions regarding maintenance of Records in Electronic Form and authentication of records by Digital Signature and manner of verification.

OUR TAKE: The instructions are self explanatory.

The **GOVERNMENT OF INDIA** vide **Circular No. 185/4/2015 dated 30th June, 2015 (published now)** issued instruction regarding Detailed Manual Scrutiny of Service Tax Returns.

OUR TAKE: The instructions are self explanatory.

CENTRAL EXCISE

COURT DECISIONS

THE COMMISSIONER OF CENTRAL EXCISE VERSUS M/S. ADVANCE DETERGENTS LTD., CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL (MADRAS HIGH COURT)

BRIEF: Department shall not deny the credit of specified duty whether or not such waste or refuse is exempt from whole of the duty of excise leviable thereon or chargeable to nil rate of duty.

OUR TAKE: The **Hon'ble MADRAS HIGH COURT** held that insofar as Rule 57D is concerned, the very language of Rule 57D makes it clear that credit of duty shall not be denied or varied on the ground that part of the inputs contained in any waste, refuse or by-product arising during the manufacture of the final product, or that the inputs have become waste during the course of manufacture of the final product. It also states that it is of no consequence whether the by-product such as waste, refuse or by-product is exempt from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty or is specified as a final product. - as the Spent Sulphuric Acid is not a final product, as has been held in the decision of the Supreme Court and assuming it is a waste, refuse or by-product, it is chargeable to nil rate of duty, Rule 57D provides for taking credit.

There is yet another factor which needs to be considered is that part of the Spent Sulphuric Acid, which is a by-product in the manufacture of the final product, namely, Acid Slurry, is cleared on payment of duty and part of it is cleared at nil rate of duty under Chapter X procedure in terms of Notification No. 8/96-CE dated 23.7.1996 and Notification No.4/97-CE dated 1.3.97. Therefore, the provisions of Rule 57D get squarely attracted to the present case and the Department shall not deny the credit of specified duty whether or not such waste or refuse is exempt from whole of the duty of excise leviable thereon or chargeable to nil rate of duty. - Decision in the case of Union of India v. Hindustan Zinc Ltd. [2014 (5) TMI 253 - SUPREME COURT]. [**Decided against Revenue**]

THE COMMISSIONER OF CENTRAL EXCISE Vs M/s DALMIA CEMENTS (BHARAT) LTD. (MADRAS HIGH COURT)

BRIEF: Interpretation of Rule 3 (5) and 9 of CCR, 2004 and Rule 11 (1) of CCR, 2002. Whether the inputs and capital goods used in a power plant and on which Cenvat credit of duty had been taken could be deemed as removed as such in terms of the provisions of Rule 3 (5) of the CCR, 2004, when the right to use the said power plant along with the land, building, plant and machinery were leased by the assessee for consideration to another company.

OUR TAKE: The **Hon'ble MADRAS HIGH COURT** held that Rule 3 (5) only speaks about the removal of goods under cover of invoice referred to in Rule 9 on inputs or capital goods on which cenvat credit has been taken and if such goods are removed as such from the factory or premises of the provider of output service, the manufacturer of the final products or provider of output service, shall be liable to pay an amount equal to the credit availed in respect of such inputs or capital goods - In this case, there is no removal of goods under cover of invoice as provided under Rule 9 of the Cenvat Credit Rules, 2004 and there is nothing in Rule 3 (5) of the CCR, 2004 to invoke the deeming fiction as insisted by the adjudicating authority. The language of Rule 3 (5) is plain and simple. When the inputs or capital goods on which cenvat credit has been taken are removed as such from the factory, then subject to compliance of other requirements, the credit availed in respect of inputs on capital goods shall be paid. This situation has not arisen in the present case, as no invoice has been issued for removal of the goods from the factory premises and, therefore, the said rule is not applicable to the case of the assessee. No reason to interfere with the well considered findings of the Tribunal on the questions of law. [**Revenue appeal dismissed**]

M/S. V.N.K. MENON & CO. VERSUS THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, THE COMMISSIONER OF CENTRAL EXCISE (MADRAS HIGH COURT)

BRIEF: The plea of the appellant is that if there is no suppression post August 1996 no extended period could be invoked post August 1996 and therefore the same analogy will have to be applied for the period prior to August 1996 as well cannot be accepted.

OUR TAKE: The **Hon'ble MADRAS HIGH COURT** held that it has been held by the Tribunal that there is a clear case of suppression for invocation of extended period of limitation for the period prior to August, 1996, as the activities of the appellant/assessee came to light subsequent to an investigation by the Department. However, insofar as the period post August, 1996, on the plea of suppression, the Tribunal was correct in setting aside the demand on the ground that the department was aware of the activities of the appellant/assessee and, therefore, post August, 1996, the case of suppression, as held by the adjudicating authority, cannot be sustained.

The plea of the appellant is that if there is no suppression post August, 1996, no extended period could be invoked post August, 1996 and, therefore, the same analogy will have to be applied for the period prior to August, 1996 as well. That plea cannot be sustained as all the activities of the appellant/assessee came to light based on investigation by the Department and recording of statement in August, 1996. - Therefore, for the period prior to August, 1996, the department was justified in invoking the plea of suppression for larger period - there is no error on record warranting interference with the well considered finding of the Tribunal. [**Decided against assessee**]

NOTIFICATIONS & CIRCULARS

The **Government of India vide Circular No. F. No. 224/44/2014-CX.6, dated 6th July, 2015** issued Instructions regarding maintenance of Records in Electronic Form and authentication of records by Digital Signature and manner of verification.

OUR TAKE: The circular is to remove the earlier difficulties. It is self explanatory.

The **Government of India vide Notification No. 18/2015, dated 6th July, 2015** notified that the Conditions, safeguards and procedures for issue of invoices, preserving records in electronic form and authentication of records & invoices by digital signatures - Class 2 or Class 3 Digital Signature Certificate duly issued by the Certifying Authority in India shall be used.

OUR TAKE: The notification is self explanatory.

CUSTOMS

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification F. No. N/11011/1/2014-NC-II, dated 17-6-2015** amends Rule 43, Rule 52 A and Rule 52F.

OUR TAKE: Readers are requested to read the notification. It contains insertion and substitution.

The **Govt. of India vide Circular No. VIH/48/70/2015, Standing Order No. 12/2015, dated 03.06.2015** issued

instruction regarding assessment of goods imported as Post Parcels/Packets at Postal Appraising Section.

OUR TAKE: The Circular is self explanatory.

INCOME TAX

NOTIFICATIONS & CIRCULARS

The **Government Of India vide Notification No. 59/2015, dated 6th of July, 2015 (published now)** notified authorised entities under Section 10(15)(iv)(h) of the Income Tax Act, 1961 to issue tax-free, secured, redeemable, non-convertible bonds during the F.Y. 2015-16.

OUR TAKE: The notification contains certain conditions as well. It is self explanatory.

The **Government of India vide Circular No. 13 of 2015 (F. No. 142/18/2015-TPL), dated 6th of July, 2015 (published now)** issued clarifications on scope and the procedure to be followed for tax compliance for Undisclosed Foreign Income and Assets.

OUR TAKE: The said Circular is in Question and Answer form. It is self explanatory.

COURT DECISIONS

C.I.T CENTRAL-II, KOLKATA VERSUS BALARAMPUR CHINI MILLS LTD. (CALCUTTA HIGH COURT)

BRIEF: With the omission of the expression deliberately mens rea is no longer a prerequisite for imposition of penalty under Section 271(1)(c) which is a civil liability and the wilful concealment is not an essential ingredient.

OUR TAKE: The **Hon'ble CALCUTTA HIGH COURT** held that in the case, before us the assessee on his own showing had furnished inaccurate particulars. The assessee admitted that the return originally filed by him included expenditure disallowable under Section 37(1) which occasioned the revised return filed by him by which a sum of ₹ 3.40 crores was added by the assessee himself to his total income originally returned. The submission advanced by Mr. Kapoor that the Assessing Officer did not call for any explanation from the assessee is not factually correct because it would appear from the assessment order dated 30th March, 2007 quoted above that a notice under Section 271(1)(c) was issued to which the assessee duly replied by its letter dated 1st June, 2006 and offered an explanation that there was no deliberate concealment which was not acceptable to the Assessing Officer. He as such passed an order under Section 271(1). It is, therefore not correct to say that the exercise calling for an explanation from the assessee was not undertaken.

Clause (c) of Section 271(1) originally qualified an act of concealment of income or furnishing of inaccurate particulars with the expression 'deliberately' which was omitted by the Finance Act, 1964 w.e.f. 1.4.1964 as a result concealment of income or inaccurate particulars need not originally have been furnished deliberately. The use of the expression 'deliberately' was a pointer to show that mens rea was a necessary element. With the omission of the expression 'deliberately', mens rea is no longer a prerequisite for imposition of penalty. It is now a case of strict liability. In the case of Dilip N. Shroff – Vs- CIT reported in (2007 (5) TMI 198 - SUPREME Court), mens rea was considered to be a necessary ingredient for levy of penalty. But in the case of Union of India –Vs- Dharmendra Textile Processors reported [2008 (9) TMI 52 - SUPREME COURT] it was held that the view in the case of Dilip. N. Shroff was not correct. It has been held that penalty under Section 271 (1) (c) is a civil liability and the wilful concealment is not an essential ingredient. [**Decided in favour of the Revenue**]

EMAAR ALLOYS PVT. LTD. VERSUS DIRECTOR GENERAL OF INCOME TAX (INVESTIGATIONS) AND OTHERS (JHARKHAND HIGH COURT)

BRIEF: The satisfaction note is administratively approved by the DGIT (Investigation) who independently should also have reason to believe that the provisions of Section 132 are complied for issue of warrant of authorization to carry out a search and seizure action. There is no illegality.

OUR TAKE: The **Hon'ble JHARKHAND HIGH COURT** held that we see no reason to entertain this writ petition mainly for the following facts and reasons: (i) This petitioner has close connection with Ex. Chief Minister of the State. (ii) There was ample materials with the Income Tax Authorities that this petitioner has not disclosed huge income. On the basis of information with the Income Tax Authorities they found need of carrying out search and seizure at the premises of the petitioner. Before issuance of warrant of authorization by the Director of Income Tax to carry out search and seizure under Section 132 of the Act, in detail the procedure prescribed under Section 132 of the Act has been followed. To carry out any search and seizure activity u/s 132 of the Income Tax Act, 1961, the concerned ADIT or DDIT has to write a satisfaction note along with supporting documents

proposing an action u/s 132 if he has reasons to believe that such an action is justified. The said satisfaction note is then forwarded by JDIT(Inv.)/Addl DIT(Inv) to the DIT(Inv.) and both these officers should independently have reason to believe on the basis of information in possession that a search and seizure activity u/s 132 of Income Tax Act, 1961 is justified. The satisfaction note is administratively approved by the Director General of Income Tax (Investigation) who independently should also have reason to believe that the provisions of Section 132 of the Income Tax Act, 1961 are complied for issue of warrant of authorization to carry out a search and seizure action. Thus no illegality has been committed by the respondents in issuing the summons under sub Section (1A) of Section 131 of the Act, 1961. See Neesa Leisure Ltd. & Anr Vs. Union of India & Ors reported in [2011 (3) TMI 706 - Gujarat High Court]. [**Decided against assessee**]

THE DIRECTOR OF INCOME TAX (EXEMPTION) BANGALORE Versus KARNATAKA INDUSTRIAL AREA DEVELOPMENT BOARD (KARNATAKA HIGH COURT)

BRIEF: Merely on the ground that the case falls under first proviso to Section 2(15) of the Act registration as a Charitable Trust under Section 12A cannot be cancelled.

OUR TAKE: The **Hon'ble KARNATAKA HIGH COURT** held that a registration granted earlier under Section 12A of the Act can be cancelled under two circumstances; (a) If the activities of such trust or institution are not genuine, (b) The activities of trust or institution not being carried out in accordance with the object of the trust or institution. Only on those two conditions being satisfied, the registration granted under Section 12A of the Act could be cancelled by the authorities.

It is not in dispute that there is no violation of the said two conditions by the assessee. The activities carried on by the assessee is a genuine one. As could be seen from the profits they have generated, the said profit is earned by carrying on the activities in accordance with the object of the trust. Therefore, the two conditions stipulated in sub- section (3) of Section 12AA of the Act, which empowers the authority to cancel registration, do not exists in this case. The registration granted is cancelled in view of the amendment of first proviso to Section 2(15) of the Act. That is not a ground specified in the Statute for cancellation of the registration. In fact, sub-section(8) to Section 13 which is introduced by Financial Act, 2012 which came into effect from 1.4.2009 categorically provides that, nothing contained in Section 11 or Section 12 shall operate so as to exclude any income from the total income of the previous year or any receipt thereof. If the provisions of the first proviso to Clause 15 of Section 2 becomes applicable in the case of such person in the said previous year, the Statute has protected the interest of revenue. Not withstanding the fact that the assessee is conferred registration under Section 12A of the Act, unless the assessee falls within Section 2(15) of the Act, excluding the first proviso, the assessee would not be entitled to the benefit of ex emption from the tax. If the case of the assessee falls with first proviso to Section 2(15) of the Act, the benefit of registration which flow from Section 12A of the Act is not available. Anyhow, that is a matter to be considered by the Assessing Authority. But on that ground, registration cannot be cancelled, which is precisely the Tribunal has held. [**Decided in favour of assessee**]

The Commissioner of Income Tax, Moradabad & Anr. Versus M/s Dhampur Sugar Mills Ltd. (ALLAHABAD HIGH COURT)

BRIEF: When no material to record finding that market price of baggasse was Rs. 18/- throughout the year which is at lower rate than market rate to its sister concern, it cannot be said that the agreement was not genuine or that price was fixed to suppress the turnover of sale and the resultant profits.

OUR TAKE: The **Hon'ble ALLAHABAD HIGH COURT** held that the issue has been discussed by the ITAT in paragraph 49 and 50 in which it has given reasons for upholding the findings of CIT (A). The issue is also covered Inter party in ITR No.65 of 1996 CIT v. Dhampur Sugar Mills Ltd.[2005 (4) TMI 567 - ALLAHABAD HIGH COURT. [**Decided in favour of the assessee**]

Addition on account of sale of baggasses at lower rate than market rate to its sister concern - Tribunal upholding the order of CIT (A) who deleted the disallowance - Held that:- No material to record finding that market price of baggasse was Rs. 18/- throughout the year in the relevant financial year, to hold that the agreement between the appellant and M/s U.P. Straw & Agro Products Ltd. was not a genuine transaction. The agreement was not between the parties before the accounting year to ensure continuous supply of bagasses to sister concern. Any interruption in supply could have affected the manufacturing process of the purchaser company. The rates of sale given by the A.O. ranged between ₹ 12.41 to ₹ 18/- per qtl. in the financial year 1987-88. The bagasse is a byproduct of which prices fluctuate during the year. If there was agreement to the sister concern for bulk supply, which was entered into prior to the accounting year at Rs. 10/- per qtl., it cannot be said that the agreement was not genuine or that price was fixed to suppress the turnover of sale and the resultant profits. The findings recorded by ITAT and the circumstances in which the rate of Rs. 10/- per qtl. was found to be reasonable are essentially findings of fact, which do not call for interference by the Court. [**Decided in favour of assessee**]

Depreciation booked in the P/L account, Tribunal upholding the order of CIT (A), who directed the Assessing Officer not to

disturb the depreciation booked in the P/L account while the depreciation on revalued of asset in not allowable for the purpose of computation of income u/s 115J - Held that:- The question is covered by the judgment of this Court in CIT, Bareilly v. Rampur Distillery and Chemicals Ltd. (2013 (1) TMI 59 - ALLAHABAD HIGH COURT) wherein held that the Tribunal did not commit any error in law in allowing the depreciation on the revaluation reserve, which is a prescribed and statutory method of accounting, and by which the book profits do not get reduced, giving any added benefit to the companies including Minimum Alternate Tax (MAT) companies. [**Decided in favour of the assessee]**

STATE TAXES

ALL INDIA VAT

Delhi

THE DELHI VALUE ADDED TAX (2nd AMENDMENT) BILL, 2015, BILL NO. 08 OF 2015.

OUR TAKE:

There has been following amendments in certain sections.

1. Section 4(1)(c):

The following clause shall be substituted, namely:-

"(c) in respect of goods specified in the Fourth Schedule, at the rates specified therein against the description of goods :

Provided that the rate of tax in respect of goods specified in the Fourth Schedule shall be higher than the rate of tax applicable under clause (e) of this sub-section but shall not be more than thirty paise in the rupee;".

2. Section 8(1)(c) the following clause shall be substituted, namely:

" (c) the previously agreed consideration for that sale has been altered by agreement with the recipient for any reason except where a discount or incentive is offered through a credit note after issuance of tax invoice in respect of a sale to a registered dealer;"; and

(ii) in sub-section (2), after clause (b), the following explanation shall be inserted, namely:-

"Explanation : Credit notes issued on account of post sale discounts or incentives will be independent of tax component and no adjustments in the output tax would be required to be made.".

3. Section 10(1) (i) the following sub-section shall be substituted, namely:-

"(1) Subject to sub-sections (1) and (2) of section 8, where any purchaser has been issued with a credit note or debit note in terms of section 51 of this Act or if he returns or rejects goods purchased, as a consequence of which the tax credit claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such short or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned.

Explanation : While issuance of a credit note of a post sale discount or incentive by a selling dealer, where no adjustment to output tax, as per the provisions of sub-sections (1) and (2) of section 8 has been made, no adjustment for reduction of input tax credit would be required by the respective buying registered dealer."; and

(ii) in sub-section (5), for the starting word "Where", the words and symbol "Subject to sub-sections (1) and (2) of section 8 and conditions as may be prescribed, where" shall be substituted.

4. Section 22(7): shall be omitted.

5. Section 38(5): for the words "fifteen days", the words "forty five days" shall be substituted.

6. Section 51: for the starting word "Where", the words and symbol "Subject to sub-sections (1) and (2) of section 8, where" shall be substituted.

7. Section 86

in sub-section (5) for the words "five hundred", the words "two hundred" shall be substituted.

And the following sub-section shall be substituted, namely:-

in sub-section (6) If a registered dealer fails to comply with the provisions of subsection (2) of section 22 of this Act, he shall be liable to pay, by way of penalty, a sum

equal to two hundred rupees for every day of default subject to a maximum of twenty five thousand rupees.";

in sub-section (9), for the words "five hundred", the words "two hundred" shall be substituted;

in sub-section (16), for clause (b), the following clauses shall be substituted, namely:-

"(b) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account; or

(c) failed to issue a tax invoice or retail invoice as required under the provisions of section 50 of this Act;" and

in sub-section (20), the explanation shall be omitted.

8. Section 89 (4) (c) shall be omitted.

9. Amendment of the Fourth Schedule (change in rate of tax of certain commodities).

Uttar Pradesh

The **Govt. of U.P. vide Notification No.- KA.NI.-2-905/XI-9(65)/15-U.P. Act-5-2008-Order-(135)-2015, dated 06.07.2015 (published now)** amends VAT Schedule-I and Schedule-II to the Act.

West Bengal

The **Government f West Bengal vide Trade Circular no. 12/2015, dated 07.07.2015 (published now)** issued circular regarding submission of paper copy of returns.

OUR TAKE: In terms of rule 34A or rule 34AA or rule 34AB of the West Bengal Value Added Tax Rules, 2005, periodic returns are to be submitted online by the dealers. If the return is furnished by a dealer using his digital signature certificate then no paper copy of the online return is required to be submitted. If the return is furnished without using digital signature certificate, then a paper copy of the online submitted return, or a printout of the acknowledgement in Form 14e or Form 15e as required under the applicable rule, should be furnished to the appropriate assessing authority. Such paper copy of return, or the printout of the relevant online acknowledgement, as applicable, may be submitted either manually or through post or courier to the respective assessing authority of the dealer.

To further facilitate furnishing of such paper copy of returns, or the relevant online acknowledgement, as the case may be, the alternative arrangement is specified in the circular.

Telangana

The **Government of Telangana vide G.O.MS.No. 109**, dated **07.07.2015 notified 1st day of May, 2015,** as the date on which the section 22 of the said Act, shall come into force.

COURT DECISIONS

STATE OF HARYANA & ORS VERSUS BHARTI TELETECH LTD (SUPREME COURT OF INDIA)

BRIEF: Denial of sales tax exemption claim. Non-maintenance of average production after the expiry of the benefit period in as much as it had drastically come down to Rs 9.06 crores from 17.52 crores. Whether clubbing of turnover of other unit is not permissible.

OUR TAKE: The hon'ble **SUPREME COURT** held that the concept of exemption has been introduced for development of industrial activity and it is granted for a certain purpose to a unit for certain types of good. Exemption can be granted under the Rules or under a notification with certain conditions and also ensure payment of taxes post the exemption period. The concept of exemption is required to be tested on a different anvil, for it grants freedom from liability. In the case at hand, as we understand, it is 'unit' specific. The term 'unit' has not been defined. The grant of exemption unit wise can be best understood by way of example. An entrepreneur can get an exemption of a unit and thereafter establish number of units and try to club together the production of all of them to get the benefit for all. It would be well nigh unacceptable, for what is required is that each unit must meet the condition to avail the benefit.

A statutory rule or an exemption notification which confers benefit to the assessee on certain conditions should be liberally construed but the beneficiary should fall within the ambit of the rule or notification and further if there are conditions and violation thereof are provided, then the concept of liberal construction would not arise. Exemption being an exception has to be respected regard being had to its nature and purpose. There can be cases where liberal interpretation or understanding would be permissible, but in the present case, the rule position being clear, the same does not arise. - clubbing is not permissible. It amounts to a violation of the conditions stipulated under Rule 11(a)(i) of Rule 28A and, therefore, the consequences have to follow and as a result, the assessee has to pay the full amount of tax benefit and interest. The approach of the High Court is

absolutely erroneous and it really cannot withstand close scrutiny. [**Decided in favour of Revenue**]

OTHER UPDATES

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Circular No. 11/2015-16 (RBI/2015-16/41), dated July 01, 2015** issued Master Circular on Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad.

OUR TAKE: This Master Circular consolidates the existing instructions on the subject of "Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad" at one place. It may be referred to for general guidance.

The **Govt. of India vide Circular No. 12/2015-16 (RBI/2015-16/33), dated July 01, 2015** issued Master Circular on External Commercial Borrowings and Trade Credits.

OUR TAKE: This Master Circular consolidates the existing instructions on the subject of "External Commercial Borrowings and Trade Credits" at one place. It may be referred to for general guidance.

The **Govt. of India vide Circular No. 7/2015-16 (RBI/2015-16/54), dated July 01, 2015** issued Master Circular on Establishment of Liaison / Branch / Project Offices in India by Foreign Entities.

OUR TAKE: This Master Circular consolidates the existing instructions on the subject of "Establishment of Branch/Liaison/Project Offices in India by Foreign Entities "at one place. It may be referred to for general guidance.

The **Govt. of India vide Circular No. 9/2015-16 (RBI/2015-16/67), dated July 01, 2015** issued Master Circular on Compounding of Contraventions under FEMA, 1999.

OUR TAKE: This Master Circular **consolidates the existing instructions on the subject of "Compounding of Contraventions under** FEMA, 1999**" at one place. It may be referred to for general guidance.**

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