



ASC Times

All India Taxes Weekly Referencer

Vol: Oct 19 - Oct 25, 2015

Solving any tax puzzle

Tax saving advice across all the taxes



From the CEO's Desk



a statement, "We have written to the Labour Ministry for approvals for starting an online PF withdrawal facility. We are hopeful of launching this by March end after yesterday's Supreme Court ruling". This will make the procedure faster and more efficient.

Alok Kumar Agarwal
 CEO
 ASC Group

Dear Reader,

Finance ministry is trying hard to come out with newer ideas as far as the economic development of the country is concerned. Proposals for many new reforms are the strict agenda for different departments of the Government. I would like you to take notice some of them as they are crucial for all of us because some of them directly impact our day-to-day business activities if not all.

In its latest standing for the hassle free roll out of GST, finance ministry has sought for India Inc.'s views on POS (Place of Supply) provisions for five major sectors including e-commerce and banking. Since GST is a destination based tax system, and right now there are different views and opinions on levying the GST on goods and services, which might be rendered at different locations and multiple states.

In another effort FM re-iterated that from the next Union Budget, Government will begin to reduce the indirect corporate tax from 30% to 25% in a phased manner and also begin phasing out the corporate exemptions.

Yet, in another effort CBDT is looking at stream lining the taxation procedure by issuing guide lines on Transfer Pricing cases which will bring out uniformity in determining arm's length price. FYI, transfer pricing is about computing arm's length price of transactions between group companies in multiple countries for determining profit and levying of taxes.

Coping up with the fast changing environment even The Employees' Provident Fund Organisation (EPFO) who has more than 5 Crore subscribers has been working to launch an online PF withdrawal facility by March end after Supreme court extended voluntary use of Aadhaar card to government schemes, including provident fund. Central Provident Fund Commissioner K K Jalan told in

TAX CALENDER

Due Date	Description	Law
20 October	Deposit of Tax	Andhra Pradesh VAT, Goa VAT, Karnataka VAT, Manipur VAT, Punjab & Chandigarh VAT, Tamil Nadu VAT, Telangana VAT, Uttarakhand VAT
	Deposit of TDS	Tamil Nadu VAT
	Issue of TDS Certificate	Chhattisgarh VAT
	Return Filing	Andhra Pradesh VAT, Karnataka VAT, Manipur VAT, Punjab & Chandigarh VAT, Tamil Nadu VAT, Telangana VAT
21 October	Deposit of Tax	Assam VAT, Delhi VAT, Maharashtra VAT, Meghalaya VAT, Orissa VAT
	Deposit of TDS	Maharashtra VAT
	Issue of TDS Certificate	Maharashtra VAT
	Return Filing	Assam VAT, Maharashtra VAT, Meghalaya VAT, Orissa VAT
22 October	Deposit of Tax	Gujarat VAT, Tamil Nadu VAT
	Issue of TDS Certificate	Delhi VAT
	Return Filing	Tamil Nadu VAT
25 October	Deposit of Tax	Rajasthan VAT
	Issue of TDS Certificate	Mizoram VAT
		Income Tax Law
Return Filing	Delhi VAT, Jharkhand VAT, Uttarakhand VAT Service Tax Law	

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
20 October	Durga Puja	Andhra Pradesh, Assam, Sikkim, Bihar, Odisha, Tripura, West Bengal
21 October	Durga Puja	Assam, Sikkim, Bihar, Odisha, Tripura, West Bengal, Jharkhand, Manipur, Puducherry, Tamilnadu, Jammu & Kashmir, Uttar Pradesh
22 October	Durga Puja	All States & UT's except Puducherry & Lakshadweep
23 October	Durga Puja	Assam, Sikkim, Karnataka, Kerala, Lakshadweep, Meghalaya, Odisha, Tamilnadu
	Muharram	Tamilnadu
24 October	Durga Puja & Muharram	All States & UT's except Bihar, Haryana, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Punjab & Tamil Nadu

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CENTRAL TAXES

SERVICE TAX

NOTIFICATIONS & CIRCULARS

The Govt. vide Notification No. 19/2015- F. No. 137/51/2014-Service Tax, dated 14 October, 2015 directs that the service tax payable under section 66B of the Finance Act, 1994, on the service provided by an Indian Bank or other entity acting as an agent to the MTSO in relation to remittance of foreign currency from outside India to India, in the said period, but for the said practice, shall not be required to be paid.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

COURT DECISIONS

M/S. S2 INFOTECH PVT. LTD. VERSUS THE UNION OF INDIA & ORS. (BOMBAY HIGH COURT)

BRIEF: Delay in passing order. Recovery of service tax. Sitting on files and for months together and sometimes beyond the financial year is thus not conducive to the interest of nation's economy. The trust and faith reposed in them is also then betrayed

OUR TAKE: The hon'ble BOMBAY HIGH COURT held that sitting on files and for months together and sometimes beyond the financial year is, thus, not conducive to the interest of nation's economy. The trust and faith reposed in them is also then betrayed. If no action is taken against such Officers and they are allowed to go scot-free, then, apart from the Revenue getting involved in litigation in higher Courts and Tribunal, others would be encouraged.

Comprehensive affidavit needs to be filed by the Chief Commissioner of Service Tax stating measures taken or proposed to be taken. Number of files and matters pending and serially to be disclosed with complete data and figures. Commissioner needs to inform the time required to complete all the pending cases.

COMMISSIONER OF CENTRAL EXCISE VERSUS M/S. VIJAYA CONSULTANTS (ANDHRA PRADESH HIGH COURT)

BRIEF: Demand of tax made from the Respondents without issuing SCN as required under Section 73. Letter issued was more of an advisory nature and demand of money in the name of tax is in violation. Appeal dismissed being devoid of merits against the Revenue.

OUR TAKE: The hon'ble ANDHRA PRADESH HIGH COURT held that no SCN was issued to the Respondent placing reliance on the letter issued by Superintendent; as such it does not satisfy the requirement of notice. Letter issued was more of an advisory nature and demand of money in the name of tax is in violation. Appeal dismissed being devoid of merits against the Revenue.

CENTRAL EXCISE

NOTIFICATIONS & CIRCULARS

The Govt. vide Circular No. 1007/14/2015-CX (F. No. 103/01/2015-CX-3), dated 12 October, 2015 notifies withdrawal of Order under 37B of Central Excise Act, 1944 on classification of Coconut Oil packed in small containers.

OUR TAKE: In view of the judgments of the Hon'ble Courts, the Central Board of Excise & Customs withdraws Circular No. 890/10/2009-CX dated June 03, 2009. The issue of classification of the said Goods may be decided by the field taking into consideration the facts of the case read with the judicial pronouncements.

COURT DECISIONS

JOHNSON PAULOSE K. VERSUS ASST. COMMISSIONER OF C. EX., COCHIN (KERALA HIGH COURT)

BRIEF: Duty demand u/s 11A. The petitioner / director is not liable to be proceeded against for the recovery of Government dues pertaining to the company.

OUR TAKE: The hon'ble KERALA HIGH COURT held that issue of applicability of the Customs (Attachment of property of Defaulters for recovery of Government Dues) Rules, 1995, in a case where the authorities under the Central Excise Act sought to proceed against the Director of a company for realisation of the dues of the company, came up for

consideration before the Delhi High Court in the decision reported in Anita Grover v. Commissioner of Central Excise and Others - 2013 (288) E.L.T. 63. A Division Bench of that court, while considering the applicability of the aforementioned Rules, held that it is only the defaulter against whom steps could be taken under the Rules. It was clarified that a defaulter is a person from whom dues are recoverable under the Act and that there was no provision in the Customs Act 1962 corresponding to Section 179 of the Income Tax Act, 1961 or Section 18 of the Central Sales Tax, 1956, which enabled the revenue authorities to proceed against directors of companies, or such like third parties, who are not defaulters. On a consideration of the facts in the instant case, I find that they are similar to the case that was considered by the Delhi High Court in the aforesaid decision, and hence, following the said judgment of the Division Bench of the Delhi High Court, I allow this writ petition by quashing Ext.P2 notice, issued to the petitioner by the 1st respondent, and declaring that the petitioner is not liable to be proceeded against for the recovery of Government dues pertaining to the company. **[Decided in favour of assessee]**

RAIGARH ISPAT & POWER PVT. LTD. VERSUS COMMISSIONER CUS. & C. EX. (CHHATTISGARH HIGH COURT)

BRIEF: Condonation of delay of 175 days. CA did not performed his obligations. Alternate arrangements caused delay. We are satisfied to condone the delay and direct restoration of the appeal before the Tribunal for disposal in accordance with law.

OUR TAKE: The hon'ble **CHHATTISGARH HIGH COURT** held that Tribunal appears to have been primarily of the opinion that the explanation for the delay was unacceptable in view of the failure of the respondent to even disclose the name of the Chartered Accountant making their application for condonation of delay casual in nature. Now that the appellant has furnished proper details of the Chartered Accountant in question and also explained the steps taken by it subsequently in the additional affidavit in support of the application for condonation of delay filed earlier, we are of the considered opinion that a final adjudicatory order is always desirable in preference to an order on technicalities. In the facts of the case, we are satisfied to condone the delay and direct restoration of the appeal before the Tribunal for disposal in accordance with law. **[Decided in favour of assessee]**

SANAT PRODUCTS LTD. VERSUS COMMISSIONER CENTRAL EXCISE (ALLAHABAD HIGH COURT)

BRIEF: Denial of refund claim. Unjust enrichment. The sole contention of the appellant was that they had deposited the duty under protest and that they had not passed on the

sale duty to its customers. The fact that the sale price remained constant does not lead to a conclusion that the duty has not been recovered from the customers. Refund denied.

OUR TAKE: The hon'ble **ALLAHABAD HIGH COURT** held that Appellant applied for refund, which was rejected on the ground, that it amounts to unjust enrichment. The sole contention of the appellant was that they had deposited the duty under protest and that they had not passed on the sale duty to its customers, inasmuch as, the sale price remained constant prior to the imposition of duty and after the imposition of duty which leads to a presumption that the duty was not passed on the customers. The fact, that the sale price remained constant does not lead to a conclusion that the duty has not been recovered from the customers as held by the Supreme Court in CCE, Mumbai-II vs. Allied Photographics India Ltd., [2004 (3) TMI 63 - SUPREME COURT OF INDIA]. **[Decided against assessee]**

THE COMMISSIONER OF CENTRAL EXCISE, PUNE-1 COMMISSIONERATE VERSUS M/S SANDVIK ASIA LTD. (BOMBAY HIGH COURT)

BRIEF: Even if it is shown on the expense side that does not mean that the presumption that the burden has been passed to the consumer can be raised. Revenue cannot invoke the plea or principle of unjust enrichment to the undisputed facts and circumstances.

OUR TAKE: The hon'ble **BOMBAY HIGH COURT** held that Tribunal was not concerned with the treatment given to the amount and as deposited in the Assessee's profit and loss account. It is immaterial and irrelevant for the Tribunal and equally for us as to what the Assessee terms this amount in his Books of Account. Even if it is shown on the 'expense side' that does not mean that the presumption that the burden has been passed to the consumer can be raised. Principle in this decision is the same which is to be found and applied by this Court in the case of Suidhe Ltd. v/s Union of India, reported in [1996 (2) TMI 136 - HIGH COURT OF JUDICATURE AT BOMBAY]. A Special Leave Petition against this judgment of this Court was dismissed by the Hon'ble Supreme Court of India on 7th August 1996. It is this very principle which has enabled the Tribunal to conclude that the Revenue cannot invoke the plea or principle of unjust enrichment to the undisputed facts and circumstances. **[Decided against Revenue]**

S.S. ORGANICS LIMITED VERSUS COMMISSIONER OF CENTRAL EXCISE, HYDERABAD (ANDHRA PRADESH HIGH COURT)

BRIEF: The circular instructions are binding on the department and in pursuance of circular instructions only

the order impugned before appellate authority was passed and that order needs no interference by this Court.

OUR TAKE: The hon'ble **ANDHRA PRADESH HIGH COURT** held that Modvat credit cannot be taken on the original invoice. It is not the case of the appellant company that it lost duplicate copy of the invoice in transit. Modvat credit can only be availed on duplicate invoices and the Department is bound to follow the circular instructions in view of the judgment reported in Union of India v. Arviva Industries (I) Ltd. [2007 (1) TMI 6 - SUPREME COURT OF INDIA]. It is clear that the circular instructions are binding on the department and in pursuance of circular instructions only, the order impugned before appellate authority was passed and that order needs no interference by this Court. **[Decided against Assessee]**

The **Govt. vide Notification No. 101/2015, dated 15 October, 2015** issued rate of exchange of conversion of the foreign currency with effect from 16th October, 2015.

OUR TAKE: Readers are requested to read the said notification. It is self-explanatory.

The **Govt. vide Circular No. 24 /2015, dated 14 October, 2015** issued set of instruction regarding improving ease of doing business issuance of electronic delivery orders.

OUR TAKE: Readers are requested to read the said notification. It is self-explanatory.

CUSTOMS

NOTIFICATIONS & CIRCULARS

The **Govt. vide Circular No. 25/2015, dated 15 October, 2015** issued circular regarding valuation of second hand machinery.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

The **Govt. vide Notification No. 100/2015-CUSTOMS, dated 15 October, 2015** issued Tariff Notification in respect of fixation of T V of Edible oil, Brass, Poppy seed, Areca nut, gold and Silver.

OUR TAKE: Readers are requested to read the said Circular. It is self-explanatory.

The **Govt. vide Notification No. 99/2015, dated 15 October, 2015** seek to amend the Principal Notification No. 61/94-Custom (N.T) dated 21.11.1994.

OUR TAKE: In the said notification, in the Table, against the serial number 2 relating to the State of Andhra Pradesh, in columns (3) and (4), item in (c) shall be substituted by "Tirupati" and the entries relating thereto in column (4) shall be substituted by "Unloading of imported goods or loading of export goods or any class of such goods."

COURT DECISIONS

COMMISSIONER OF CUSTOMS & ANOTHER VERSUS M/S CONTESSA COMMERCIAL CO. LTD & OTHER (SUPREME COURT)

BRIEF: Over valuation of items imported. Consignment of CD ROMs declared as computer software Declaration of price in the Bill of Entry was correct and goods are wholly exempt from customs duty thus there could be no motive in mis-declaration of value.

OUR TAKE: The hon'ble **SUPREME COURT** held that revenue accepted that CD ROMs which were imported by the respondent-company were capable of interactivity and the same would be covered by the definition of 'computer software' contained in the exemption Notification. Declaration of price in the Bill of Entry was correct and goods are wholly exempt from customs duty thus there could be no motive in mis-declaration of value. **[Decided in favour of the Respondent]**

ANITA EXPORTS - A PARTNERSHIP FIRM & 1 VERSUS UNION OF INDIA & 2 (GUJARAT HIGH COURT)

BRIEF: Claim for Refund of Penalty Once the orders-in-original have been set aside the Respondent has no authority to retain the amounts deposited by the petitioners towards duty after being annulled by the orders passed by the Appellate Commissioner.

OUR TAKE: The hon'ble **GUJARAT HIGH COURT** held that once the orders-in-original have been set aside, the Respondent has no authority to retain the amounts deposited by the petitioners towards duty after being annulled by the orders passed by the Appellate

Commissioner. Contentions of the Respondent are premature, cannot be countenanced. Petitions succeed and allowed. **[Decided in favour of the Petitioner]**

THE COMMISSIONER OF CUSTOMS (EXPORTS) VERSUS M/S JAY AR ENTERPRISES, CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL (MADRAS HIGH COURT)

BRIEF: Mis-declaration of country of origin. No dispute arise about the fact that goods in question were not dutiable goods by virtue of the exemption notification. Since no duty is payable no penalty can be imposed.

OUR TAKE: The hon'ble **MADRAS HIGH COURT** held that exemption in terms of Notification No.94/96-Cus - No dispute arise about the fact that goods in question were not dutiable goods, by virtue of the exemption notification - since no duty is payable, no penalty can be imposed. Tribunal followed the express language of Section 112(a)(ii) - Found no merits in the appeal hence dismissed – Decision as made in case of Associated Cement Companies Ltd., v. Commissioner of Customs [2001 (1) TMI 248 - Supreme Court of India]. **[Decided against the Appellant]**

JAIN GRANI MARMO VERSUS THE UNION OF INDIA PRIVATE LIMITED & ORS. (RAJASTHAN HIGH COURT)

BRIEF: DTA sale by 100% EOU. Wastage in production from Imported Blocks. Challenge the limit of disposal of reject/scrap. Revenue allowed only 2%. Development Commissioner had initially fixed ad hoc norms for wastage in production from Imported Blocks to the extent of 8.92% and wastage to the extent of 27.56% from indigenous blocks.

OUR TAKE: The hon'ble **RAJASTHAN HIGH COURT** held that by allowing only 2% of reject /waste disposal the Respondent is going against its own policy as enumerated in Clause 6.8(e) and 6.8 (d) of Foreign Trade Policy which is unjust and arbitrary in nature and does not stand any test of reasoning. The actions of the Board had caused loss of revenue to the State. Impugned order is set aside. **[Appeal allowed in favour of assessee]**

INCOME TAX

NOTIFICATIONS & CIRCULARS

The **Govt. vide Notification No. 78/2015, dated 12 October, 2015 notify Income-tax (15th Amendment) Rules, 2015.**

OUR TAKE: There is amendment in rule 11DD, for sub-rules (2) and (3), of Income-tax Rules, 1962. The definition of specialists for the prescription in respect of the diseases or ailments specified in sub-rule (1) and content of prescription has been amended. And In the said rules, in Appendix-II, Form No. 10-I shall be omitted.

COURT DECISIONS

PR. COMMISSIONER OF INCOME TAX-4 VERSUS G & G PHARMA INDIA LTD. (DELHI HIGH COURT)

BRIEF: Validity of reopening of assessment. Receipt of accommodation entry. Whether the ITAT was correct in holding that the Assessing Officer (“AO”) has not applied his mind and not come to an independent conclusion that he has reason to believe that the income of the Assessee has escaped assessment?

OUR TAKE: The hon'ble **DELHI HIGH COURT** held that in the present case, after setting out four entries, stated to have been received by the Assessee on a single date i.e. 10th February 2003, from four entities which were termed as accommodation entries, which information was given to him by the Directorate of Investigation, the AO stated: “I have also perused various materials and report from Investigation Wing and on that basis it is evident that the assessee company has introduced its own unaccounted money in its bank account by way of above accommodation entries.” The above conclusion is unhelpful in understanding whether the AO applied his mind to the materials that he talks about particularly since he did not describe what those materials were. Once the date on which the so called accommodation entries were provided is known, it would not have been difficult for the AO, if he had in fact undertaken the exercise, to make a reference to the manner in which those very entries were provided in the accounts of the Assessee, which must have been tendered along with the return, which was filed on 14th November 2004 and was processed under Section 143(3) of the Act. Without forming a prima facie opinion, on the basis of such material, it was not possible for the AO to have simply concluded: “it is evident that the assessee company has introduced its own unaccounted money in its bank by way of accommodation entries”. Thus the basic requirement that the AO must apply his mind to the materials in order to have reasons to believe that the income of the Assessee escaped

assessment is missing in the present case. In the circumstances, the conclusion reached by the ITAT cannot be said to be erroneous. **[Decided against revenue]**

SMT. JASBIR KAUR JOHAL VERSUS UNION OF INDIA AND ANOTHER (PUNJAB & HARYANA HIGH COURT)

BRIEF: Validity of reassessment proceedings initiated against a dead person after his death. Liability of the legal representative. The notice issued to the petitioner as legal representative of her deceased husband is legal and valid.

OUR TAKE: The hon'ble **PUNJAB & HARYANA HIGH COURT** held that it is clear from the analysis of Section 159 of the Act as noticed that the legal representative of the deceased is liable for filing the returns and payment of taxes. It is, however, restricted to the extent of inheritance to the estate of the deceased by the legal representatives. In the present case, notice under Section 148 of the Act was issued to the petitioner as legal representative of her deceased husband Kulwinder Singh Johal and not as an assessee in her individual capacity for the assessment year 2008-09. It was not in controversy that Kulwinder Singh Johal had died on 25.7.2014. Thus, the notice issued to the petitioner as legal representative of her deceased husband, Kulwinder Singh Johal is legal and valid.

None of the pronouncements relied upon by learned counsel for the petitioner comes to his rescue. Herein, the income of the deceased Kulwinder Singh Johal which has escaped assessment is sought to be brought to tax by issuance of a notice under Section 148 of the Act to his legal representative in accordance with the provisions of Section 159 of the Act. No justification to interfere with the impugned notice and the assessment proceedings. Petition dismissed. **[Decided against assessee]**

PR COMMISSIONER OF INCOME TAX-1 VERSUS M/S VIJAY PATAKA SYNTHETICS (GUJARAT HIGH COURT)

BRIEF: Whether the embroidery work carried out by the assessee on synthetic fabrics would amount to "manufacture" or "production"?

OUR TAKE: The hon'ble **GUJARAT HIGH COURT** held that in the present case, the assessee carries on embroidery work on synthetic fabrics. When the assessee carries on embroidery work on the synthetic fabric, such synthetic fabric is converted into a new article, viz. embroidered synthetic fabric which is commercially known as another article. The nature of the article produced would depend upon the kind of embroidery carried out on the synthetic cloth. The ultimate article produced may be an embroidered saree or an embroidered dress material or some other article. Therefore, there would be a transformation in the basic synthetic fabric on which embroidery has been carried

out resulting into a new article which is commercially known as another article. Under the circumstances, the work of embroidery carried on by the assessee would fall within the ambit of definition of "manufacture" as envisaged under section 2(29BA) of the Act. The Tribunal, therefore, did not commit any legal error in holding that the activity carried on by the assessee falls within the ambit of manufacturing activity and thereby the assessee is entitled to avail of the additional depreciation under section 32(1)(ii) of the Act in relation to the machinery installed by it. **[Decided in favour of assessee]**

STATE TAXES

ALL INDIA VAT

ANDHRA PRADESH

The **Govt. vide Circular No CCT's Ref.No. AI (1)/126/2015, dated 6 October, 2015** issued instruction regarding registration and insisting of Security/Additional Security and Provisional Assessment under CST Act.

OUR TAKE: The instruction is regarding obtaining the Security/ Additional Security with regard to certain sensitive commodities. Readers are requested to read the said Circular. It is self-explanatory.

The **Govt. vide Circular No. CCTs Ref No.AI(1)/45/2014, dated 14th October, 2015** issued instruction regarding inter-State movement of goods Goods purchased by Government Departments and consumers for their own use.

OUR TAKE: The Govt. issued instruction regarding Goods purchased by Government Departments and consumers for their own use and insistence to obtain transport declarations at border check Posts/ICPs.

DELHI

The **Govt. vide Notification No. F.3(515)/Policy/VAT/2015/870-81, dated 12 October, 2015** extend the last date for filing of online returns for

the 1st and 2nd quarters of the year 2015-16, in Forms EC-II and EC-III to 16/11/2015.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

MEGHALAYA

The **Govt. vide Notification No. LL(B).53/2002/601, dated 29 September, 2015** published The Meghalaya Value Added Tax (Amendment) Act, 2015 (Act No. 8 of 2015).

OUR TAKE: In Section 106 of the said act, after the proviso to the existing sub-section (2), a new sub-section (2A) and a proviso is to be inserted. It is regarding TDS for dealers supplying coal and limestone to cement plants and other manufacturing Industries.

UTTAR PRADESH

The **Govt. vide Notification No. K.A. NI-2-1422/XI-9(125)/09-U.P. Act-5-2008-Order-(145)-2015, dated 14 October, 2015** direct with effect from October 15, 2015, that during the transportation of the edible oil of the weight exceeding nine tons, transport memo in Form XXI prescribed under Rule 40 of the Uttar Pradesh Value Added Tax Rules, 2008 shall be issued and accompanied.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

The **Govt. vide Notification No. K.A. NI-2-1423/XI-9(1)/2008-U.P. Act-5-2008-Order-(142)-2015, dated 14 October, 2015** that with effect from October 15, 2015, the Schedule-IV is amended.

OUR TAKE: In the said Schedule-IV, for the entries at serial numbers 12, 13 and 14 the following entries respectively shall be substituted:

“12. Cigarette/Cigar, Rate of Tax being 40%”, “13. Pan Masala without tobacco content, Rate of Tax being 40%”,

“14. Khaini, Zarda, Surti other manufactured tobacco and tobacco products excluding Bidi Rate of Tax being 40%”.

The **Govt. vide Notification No. KA.NI.-2-1421/XI-9(1)/2008-U.P.Act-30-2007-Order-(143)-2015, dated 14 October, 2015** make with effect from October 15, 2015 amendment in the Schedule.

OUR TAKE: In the said Schedule, for entry at serial number 9, the entry "Coal including coke in all its forms, Rate of tax being 2% of the value of goods." shall be substituted.

UTTARAKHAND

The **Govt. vide Notification No. 897/2015/2(120)/XXVII(8)/2008, dated 8 October, 2015** seek to amend in Schedule-I of the Uttarakhand Value Added Tax Act, 2005.

OUR TAKE: In Schedule I, for the existing entry at serial no. 55, the following entry shall be substituted as exempt goods:

“(i) Slate (excluding writing boards), slate pencils.

(ii) Scale and duster made of timber or wood of kinds/species other than Teak, Devdar, Saal, Sheesham, Kail or Sain subject to the condition that sale of these goods of such dealers is not more than Rs 50 lakh in a financial year”.

The **Govt. vide No. 904/2015/24(120)/XXVII(8)/2010, dated 12 October, 2015** notifies that the tax on entry of goods specified in column 2 i.e. “Raw Petha and Petha Sweet brought from other States” of the Schedule under Uttarakhand Tax on Entry of Goods Into Local Areas Act, 2008 shall be levied and collected at the rate specified in column 3 i.e. “5% of the value of goods”.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

COURT DECISIONS

FOOD CORPORATION OF INDIA VERSUS STATE OF HARYANA AND ANOTHER (PUNJAB AND HARYANA HIGH COURT)

BRIEF: Inclusion of incidental charges for the purpose of valuation. Interest would be chargeable from the date of

the passing of the assessment order in question and not from the date of passing of assessment order in any other year by which assessing authority has taxed the incidental charges for the first time.

OUR TAKE: The hon'ble PUNJAB AND HARYANA HIGH COURT held that primary issue that arises for consideration relates to the date from which the interest would be chargeable, i.e., whether interest is leviable from the date of assessment order in question or from the date of assessment order by which assessing authority has taxed the incidental charges for the first time for any assessment year. Again, it was not disputed that the issue stands concluded by the judgment of the honourable apex court in J. K. Synthetics Ltd. v. Commercial Taxes Officer [1994 (5) TMI 233 - SUPREME COURT] wherein it has been held that the interest is payable by the dealer from the date of the passing of the assessment order. Accordingly, it is held that the interest would be chargeable from the date of the passing of the assessment order in question and not from the date of passing of assessment order in any other year by which assessing authority has taxed the incidental charges for the first time. **[Appeal disposed of]**

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

DGFT

The **Govt. vide Public Notice 40/2015-2020, dated 9 October, 2015** issued Notice regarding Declaration of intent under MEIS Scheme.

OUR TAKE: Shipping bills, where declaration of intent 'Y' has not been marked and 'N' has been ticked inadvertently in the 'reward item box' while filing shipping bill in Customs for exports made between 1.4.2015 to 31.5.2015, shall be transmitted by CBEC to DGFT.

The **Govt. vide Public Notice 41/2015-2020, dated 13 October, 2015** notified allocation of quantity for export of sugar to EU under CXL quota and to USA under Tariff Rate Quota.

OUR TAKE: Readers are requested to read the said Notice. It is self-explanatory.

FEMA

The **Govt. vide Notification F. No. A-12011/02/2014-Ad.ED, dated 16 September, 2015** prescribes the mandatory threshold of the aggregate value of Foreign Exchange, Foreign Security or any immovable property, situated outside India as not less than rupees one crore.

OUR TAKE: Readers are requested to read the said Notification. It is self-explanatory.

OTHER UPDATES

ALLIED LAW

The **Govt. vide Notification No. 1/2015-Narcotics Control-1, dated 5 October, 2015** notifies the general conditions for grant of license cultivation of opium poppy on account of the Central Government during the Opium Crop Year Commencing on the 1st day of October, 2015 and ending with the 30th day of September, 2016.

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