

From the CEO's Desk



Dear Reader,

India is the largest democratic country in the world with a federal system of Government for the ease of governance we all know. The responsibilities are divided between the Centre and the States and similarly the revenue collected is allocated between the two. So for any big plan of the Centre Government to work it is important to include states government as well. Be it the implementation of GST or working on any other development plan such as 'Housing-for-All'. So for smooth working of the plan and for the purpose of implementation, Centre has proposed to decentralize the process by involving state governments in the planning and decision making process.

India is on its progress path and for our vast development projects we need a lot of support of another countries, big business houses (Indian as well as Foreign) and international funds and banks. So any policy or ambiguity in any of the taxation policies may impact negatively in the way people invest. For example, in the last fortnight over Rs. 800 crore was pulled out by foreign investors due to the derailment of key economic reforms and they further sucked out money due to weakness of rupee.

So after understanding the situation Government is considering to tell tax officials to stop chasing minimum alternate tax demands against foreign portfolio investors (FPIs), seeking through this one measure to give investor sentiment a sharp boost and head off further legal disputes over the levy. It will also bring swift closure to the biggest tax controversy concerning foreign investors. The likely move on MAT will follow the recommendation of a high-level panel that overseas investors should get relief even prior to April 1, 2015, and not just after that date as mandated in this year's budget. The government could introduce a specific provision in next year's budget to back up any notice giving immediate relief.

In yet another initiative, Finance Minister Mr. Arun Jaitley said that a discussion paper on first set of tax exemptions to be phased out would be put in the public domain shortly. He added that, "The government, as I told in the budget, will bring down the corporate tax level from 30 per cent to 25 per cent gradually," He further explained that the effective rate of taxation is 22% plus only because there are large number of exemptions for the purpose of development and also funds are required for the schemes like agri-insurance and health schemes for elderly.

Alok Kumar Agarwal
 CEO
 ASC Group

TAX CALENDER

Due Date	Description	Law
25 August	Tax Payment	Kerala VAT, Rajasthan VAT
	Intimation of tax liability as Nil	Uttarakhand VAT
	Return Filing	Kerala VAT, Jharkhand VAT
	Issue of TDS Certificate	Mizoram VAT
28 August	Tax Payment	Arunachal Pradesh VAT
	Return Filing	Arunachal Pradesh VAT
29 August	Return Filing	Gujarat VAT
30 August	Tax Payment	Himachal Pradesh VAT, Punjab & Chandigarh VAT, Mizoram VAT
	Return Filing	Himachal Pradesh VAT, Punjab & Chandigarh VAT, Rajasthan VAT

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COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
27 August	First Onam	Kerala
28 August	Thiruvonam	Andaman & Nicobar, Kerala, Lakshadweep, Mizoram
29 August	Raksha Bandhan	All States and Union Territory
	Pang Lhabsol	Sikkim

CENTRAL TAXES

SERVICE TAX

NOTIFICATIONS & CIRCULARS

The **Govt. vide Circular No. F.No.137/46/2015-Service Tax Dated 18th August, 2015** issued clarification regarding the provisions of Section 73, 76 and 78 of the Finance Act, 1994.

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

COURT DECISIONS

LSE SECURITIES LTD. VERSUS ASSTT. COMMR., S.T. DIVISION, CHANDIGARH (PUNJAB AND HARYANA HIGH COURT)

BRIEF: Denial of refund claim. Mere pendency of appeal preferred by respondent/department challenging the order passed by Tribunal dated May 7 2012 was itself no ground to delay the refund. Refund to be made with interest.

OUR TAKE: The Hon'ble PUNJAB AND HARYANA HIGH COURT held that department conducted an investigation against petitioner alleging non-payment of service tax on the various charges. During investigation, it revealed that service tax on various amounts totaling Rs. 2,46,85,713/- was not paid. Tax which was allegedly due was worked out at Rs. 16,18,761/-. Immediately, when this fact was pointed out, petitioner deposited an amount of Rs. 15,00,000/- and information in this regard was also transmitted to respondent/department vide letter dated April 29, 2005 but subsequently, after conclusion of the investigation, show cause notice dated March 29, 2006 was issued, which ultimately culminated into the demand as adjudicated by concerned authority vide original order dated August 23, 2006. It is also an undisputed fact that order-in-original dated August 23, 2006 has since been set aside by learned Tribunal vide order dated May 7, 2012. Mere pendency of appeal preferred by respondent/department challenging the order passed by Tribunal dated May 7, 2012 was itself no ground to delay the refund of amount of Rs. 15,00,000/- deposited by the assessee during the course of investigation.

Since the amount has been unauthorized and without any legal basis, been withheld, the respondent was bound to

pay interest especially, in the circumstances that amount of Rs. 15,00,000/- was utilised by respondent/department - department is directed to pay interest @15% per annum from the date it became due after excluding 3 months' time from the date of passing of order i.e. from August 07, 2012 till February 12, 2014. [**Decided in favour of assessee**]

CIVIL APPELLATE JURISDICTION, COMMISSIONER, CENTRAL EXCISE & CUSTOMS, KERALA VS. M/S LARSEN & TOUBRO LTD., CIVIL APPEAL NO. 6770 OF 2004 WITH 4468 OF 2006, 6434 OF 2015, 2798 OF 2009, 4234 OF 2009, 4281 OF 2009, 6429 OF 2015, 4893 OF 2011, 6084 OF 2011, 8477 OF 2011, 732 OF 2012, 5841 OF 2011, 6430 OF 2015

BRIEF: Supreme Court Judgement on No Service Tax on Composite Contract.

OUR TAKE: The Hon'ble Supreme Court in batch of matters decided together upheld that no service tax is leviable on composite contract but service tax is pure simplicity service contract under service tax under provisions 65(105)(zzd),(zzq)(zzzh) and notifications giving 67% exemption under said taxable services have no relevance at all, once service tax was leviable only on service contract and not on composite contract, which only taxed w.e.f. 01.06.2007 under section 65(105)(zzza). Though this contention was rejected by Hon'ble Delhi High Court in G.D. Builders judgement, but Supreme Court held that High court had made grave errors and held that High court did not correctly decided.

BHARATH SANCHAR NIGAM LIMITED (MOBILE SERVICES) VERSUS THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX (KERALA HIGH COURT)

BRIEF: Adjournment request. Tribunal refused to adjourn the hearing and dismissed the appeal. When such requests were received by the Tribunal seeking an adjournment of the hearing in the absence of a finding that the request was not made for bona fide reasons the Tribunal was not justified in rejecting the same.

OUR TAKE: The Hon'ble KERALA HIGH COURT held that counsel for the appellant was unable to appear on that date, Annexure-B adjournment petition dated 14/11/2013 was sent and the same was received by the Registry of the Tribunal on 17/1/2014. It is further stated that they had also sent an E- mail on 18/1/2014, a copy of which is Annexure-B2, requesting the Tribunal for an adjournment. When such requests were received by the Tribunal, seeking an

adjournment of the hearing, in the absence of a finding that the request was not made for bona fide reasons, the Tribunal was not justified in rejecting the same and proceeding with the hearing of the matter.

Appellant has satisfactorily explained the reason for delay. Delay was condoned. Matter restored before the Tribunal to be heard on merit.

CENTRAL EXCISE

COURT DECISIONS

NTB INTERNATIONAL (P) LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE, THANE (SUPREME COURT)

BRIEF: The case is with regard to classification of manufacture of nylon and leather belt, nylon and rubber belt and nylon and textile belt.

OUR TAKE: The Hon'ble SUPREME COURT held that tribunal rightly classified under Chapter Heading 4201.90 and 4010.00 and 5908.00 respectively. It is misconceived on the part of the appellant argued that simply because of plastic was one of the inputs it would still retain its characteristics as plastic and should have been classified under Heading 3926.90.

Not only the products manufactured are wholly from the plastics, after the manufacture it lost its identity as plastic insofar as and has not known in the market any longer - Decision of tribunal [2000 (6) TMI 301 - CEGAT, MUMBAI] sustained - appellant should be extended the benefit of the MODVAT Credit, in this connection, if the assessee is entitled to such MODVAT Credit otherwise, the same shall be given to him. [Decided against Assessee]

M/S. TAMIL NADU PETROPRODUCTS LTD. VERSUS COMMISSIONER, CENTRAL EXCISE, CHENNAI & ANOTHER (SUPREME COURT)

BRIEF: The issue is with regard to best judgment assessment regarding Valuation where related person are involved. Where arm's length sales are made at well below cost whether CESTAT is justified in adopting cost plus method.

OUR TAKE: The Hon'ble SUPREME COURT held that according to the Department, if the sale price contained in another chart is compared with the cost of production, it is clear that even the sales made to arm's length purchasers is at prices ranging between RS 69,000/- and Rs 85,000/- which is way below cost at Rs 1,57,548/-. While agreeing with the

CESTAT that none of the Central Excise (Valuation) Rules would be directly applicable as a result of which Rule 11 would have to be relied upon which gives the authority the power to make a best judgment assessment. We find that on facts in the present case, the cost of manufacture plus 15 per cent principle would not be attracted for the simple reason that it is found that in point of fact, sales made to arm's length purchasers were way below cost. To apply the cost plus principle on facts where arm's length sales are made at well below cost is to choose a principle that would work arbitrarily as the endeavour of the assessing authority is to arrive at an arm's length wholesale cash price to value the aforesaid manufactured articles for purposes of levy of excise duty. Impugned order is partly set aside. [Decided partly in favour of assessee]

M/S. GREAVES LTD. VERSUS COMMNR. OF CENTRAL EXCISE & CUSTOMS, AURANGABAD (SUPREME COURT)

BRIEF: The case related to Invocation of extended period of limitation for the purpose of Valuation. Could assessee be faulted for action taken prior to issuance of clarificatory circular?

OUR TAKE: The Hon'ble SUPREME COURT held that issue as to what factors should be taken into consideration for arriving at the cost of production was clarified by the Department in its Circular dated 30.10.1996 and on that basis in the case of Commissioner of Central Excise, Ahmedabad vs. Asarwa Mills [2015 (4) TMI 816 - SUPREME COURT], this Court took the view that the assessee could not be faulted with for taking into consideration some of those paras prior to the issuance of the said clarificatory circular. Applying the principle extended period of limitation up to September, 1996 cannot be invoked. [Decided in favour of assessee]

CUSTOMS

NOTIFICATIONS & CIRCULARS

The Govt. vide Notification Notice No. 76/2015 dated 18 August, 2015 makes the regulations further to amend the Customs Baggage Declaration Regulations, 2013.

OUR TAKE: There is amendment in Form 1. Readers are requested to read the said notification.

The Govt. vide Notification No. 42/2015, dated 18 August, 2015 seeks to impose anti-dumping duty on the imports of

Caustic Soda, originating in or exported from China PR and Korea RP for a period of five years.

The **Govt. vide Notification No. 43/2015, dated 18 August, 2015** seeks to extend notification No, 82/2011, dated 25th August, 2011 for a further period of one year.

The **Govt. vide Notification No. 44/2015, dated 18 August, 2015** seeks to rescind notification No, 89/2009.

COURT DECISIONS

D.R. ENTERPRISES LTD. VERSUS ASSISTANT COLLECTOR OF CUSTOMS AND OTHERS (SUPREME COURT)

BRIEF: Import of Printing Machine at concessional rate Burden of proof was on appellant to establish that machine imported by it generates more than 35000 composite impressions or copies per hour which appellant failed to do so.

OUR TAKE: The Hon'ble SUPREME COURT held that interim prayer for release of machinery was allowed by High Court. No doubt, when High Court passed interim order in favour of appellant, High Court could have dispose of petition. It was at instance of appellant that issue was taken up for hearing.

After inviting High Court to decide matter on merits and finding that decision has gone against appellant, contrary argument was nothing but desperate attempt to come out of situation which was appellant's own creation. Order of High Court clearly records that appellant had requested High Court to decide issue on basis of material on record.

Ultimate conclusion drawn by High Court in regards to entitlement of appellant to claim exemption under Notification No. 114/80-CUS in this behalf was correct and plausible. Burden of proof was on appellant to establish that machine imported by it generates more than 35,000 composite impressions or copies per hour which appellant failed to do so appeal was dismissed. [Decided against Assesse]

M/S. NITISH TOOLS PVT. LIMITED VERSUS CUSTOMS, CENTRAL EXCISE & SERVICE TAX, SETTLEMENT COMMISSION, THE COMMISSIONER OF CENTRAL EXCISE, THE COMMISSIONER OF CUSTOMS (MADRAS HIGH COURT)

BRIEF: Settlement of case True and full Disclosure lack of co-operation on part of petitioners for settlement of their case Commission has rightly held that it was fit case for sending it back to original authority for disposal in accordance with law.

OUR TAKE: The Hon'ble MADRAS HIGH COURT held that fundamental requirement of application under Section 127-B was full true and candid disclosure by applicant of liability to pay duty which was not disclosed before proper officer. Significantly, these include particulars of dutiable goods in respect of which applicant admits short levy, on account of mis-declaration or undervaluation. Petitioners accepted only 11.89% of total liability demanded by department based on documentary evidence. Petitioners were admittedly given sufficient opportunities to come up with true and full disclosure of their liability, however, right from inception, petitioners have been dodging matter without participating in settlement proceedings. Petitioners have not failed to make true and full disclosure of their duty liability in their applications, but have also failed to provide required co-operation to Bench to settle case in true spirit of settlement. Therefore, considering facts and circumstances of case and more particularly, lack of co-operation on part of petitioners for settlement of their case, Commission has rightly held that it was fit case for sending it back to original authority for disposal in accordance with law. [Decided against petitioner]

M/S ACER INDIA PVT LTD VERSUS UNION OF INDIA, THE CENTRAL BOARD OF EXCISE AND CUSTOMS, MINISTRY OF FINANCE DEPARTMENT OF REVENUE. TECHNICAL OFFICER (DRAWBACK), COMMISSIONER OF CUSTOMS (PREVENTIVE), ASSISTANT COMMISSIONER OF CUSTOMS (KARNATAKA HIGH COURT)

BRIEF: Claim of Drawback on re-export of duty-paid goods considering application for drawback documents filed in support of claim should be considered liberally and drawback cannot be denied on mere technicalities or by adopting narrow and pedantic approach since duty drawback is incentive scheme.

OUR TAKE: The Hon'ble KARNATAKA HIGH COURT held that Rule 5 of Rules, 1995 mandates that exporter would be entitled to file claim for duty draw back within outer limit of six months by explaining delay. Reasons for delay were petitioner's inability to collect documents at time and file same before authorities. Genuineness of claim made by petitioner was not doubted by authorities. Third respondent intimated fourth respondent that such refusal would be

irregular and even if time barred applications were to be received they came to be dealt with in accordance with extant rules. In view of fact that first respondent amended Rule 5 of Rules, 1995 and extended period from 6 months to 9 months therefore was empowered to condone delay. It was held in COMMISSIONER OF CUSTOMS, MUMBAI vs. TERA OVERSEAS LTD [2002 (10) TMI 109 - HIGH COURT AT CALCUTTA] that while considering application for drawback, documents filed in support of claim should be considered liberally and drawback cannot be denied on mere technicalities or by adopting narrow and pedantic approach, since duty drawback is incentive scheme. In view of said observation impugned order set aside. Matter remitted to first respondent to consider applications of petitioner. [Decided in favour of Appellant]

INCOME TAX

NOTIFICATIONS & CIRCULARS

The **Govt. vide Notification No. 63/2015, dated 12 August, 2015 (now published)** entered into Agreement between the Government of the Republic of India and the Government of the Republic of San Marino for the Exchange of Information with respect to taxes.

OUR TAKE: It shall have effect in the Union of India from the 29 day of August, 2014. Readers are requested to read the said Notification for detailed amendments.

The **Govt. vide Notification No. 63/2015, dated 17 August 2015** seek to issue Income Tax (Twelfth Amendment) Rules, 2015.

OUR TAKE: There is amendment regarding Computation of period of stay in India in certain cases.

COURT DECISIONS

AVASARALA TECHNOLOGIES LTD. VERSUS JOINT COMMISSIONER OF INCOME-TAX (SUPREME COURT)

BRIEF: Depreciation on machinery purchased from Andhra Pradesh State Electricity Board. Since the machinery was not purchased by the appellant it never became the owner

of the machinery and therefore could not claim any depreciation thereof.

OUR TAKE: The Hon'ble SUPREME COURT held that all the authorities below have found, as a fact, that there was no such purchase of machinery and the transaction in question is sham. On that basis, it was concluded that since the machinery was not purchased by the appellant, it never became the owner of the machinery and, therefore, could not claim any depreciation thereof. These are pure findings of facts recorded by the authorities below. No question of law arises. HC judgment upheld [2003 (9) TMI 36 - KARNATAKA High Court]. [Decided against assessee]

THE COMMISSIONER OF INCOME TAX, PATIALA VERSUS M/S. H.M. STEELS LTD. (PUNJAB & HARYANA HIGH COURT)

BRIEF: Deduction u/s 80IC. Whether sales tax rebate to be included as profit derived from Industrial Undertaking and eligible as deduction u/s 80IC?

OUR TAKE: The Hon'ble PUNJAB & HARYANA HIGH COURT held that on a parity of reasoning and on an analysis of section 80- IC, it must be held that any industrial undertaking or enterprise would be entitled to deduction under sub-section (1) only to the extent of profits derived from such an industrial undertaking and not on account of any rebate or incentive made available to it by the Government. The words "derived from industrial undertaking" are distinct from the words "profits attributable to industrial undertaking". The sales tax rebate falls within the ambit of the latter expression and not the former. What has been held in Liberty India vs. Commissioner of Income Tax, (2009 (8) TMI 63 - SUPREME COURT) in respect of the DEPB incentive applies equally to sales tax rebate in respect of section 80-IC. The sales tax rebate is an incentive which flows from the scheme framed by the Himachal Pradesh Government and is, therefore, not a profit derived from the business but is an ancillary profit of the business.

Question answered in favour of the Revenue. The assessee is not entitled to the benefit of section 80- IC in respect of the sales tax rebate obtained by it. [Decided against assessee]

Regarding eligibility for interest on FDRs it was held that assessee had received interest on FDRs kept with the bank as margin money. He treated the same as income from other sources and not profit derived from industrial undertaking. Accordingly, he disallowed the deduction. The Tribunal remanded the issue to the Assessing Officer for fresh adjudication in accordance with law and by keeping in view a decision of this Court referred to therein. As the matter has been kept open, **no question of law arises.**

COMMISSIONER OF INCOME TAX VERSUS LABH CONSTRUCTION & IND. LTD (GUJARAT HIGH COURT)

BRIEF: Interest payment under Section 201(1A). When the assessment qua the payee companies was completed and it was held that both the companies were not liable to pay any tax the liability to pay interest upon the late payment of TDS by assessee would stop running.

OUR TAKE: The Hon'ble GUJARAT HIGH COURT held that in their opinion, when the assessee company had to pay the tax on behalf of the payee companies and when the payee companies themselves had not to pay any tax, subsequent to such declaration with regard to payee companies, no interest can be leviable against the company since there would be no loss of revenue in whatsoever manner.

In the present case, it has been held that when the assessment qua the payee companies was completed and it was held that both the companies were not liable to pay any tax, the liability to pay interest upon the late payment of TDS by assessee would stop running. In our opinion the case of Commissioner of Income Tax V. Anjum M.H.Ghaswalla & Ors. (2001 (10) TMI 4 - SUPREME Court) would not be applicable to the present case. [**Decided in favour of assessee**]

STATE TAXES

ALL INDIA VAT

CHATTISGARH

The **Govt. vide CHHATTISGARH ACT (No. 29 of 2015)** seek to further amend The Chhattisgarh Value Added Tax (Amendment) Act, 2015.

OUR TAKE: In sub-section (3) of Section 21 of the Chhattisgarh Value Added Tax Act, 2005 (No. 2 of 2005), for the word "one", the word "three" shall be substituted.

DELHI

OUR TAKE: The **Govt. vide Circular No. 20 of 2015-16 No.F.3(556)/Policy/2015/591-93, dated 19 August, 2015** is for the dealer registered with the department within last three years, whose turnover excluding the turnover of goods specified in the First Schedule and the turnover of exports (hereinafter mentioned as 'Quantified Turnover') has crossed Rs. 10 crores in any of the financial years from the year of his registration with the department and who has deposited tax less than 0.1% of such quantified turnover in the respective financial year(s).

The dealers covered under the above category will be required to furnish additional security for an amount equal to 0.1% of the maximum of the quantified turnover in any of the last three financial years in the manner prescribed in rule 23 of the DVAT Rules, 2005.

Comments and views of all stakeholders are invited on the above issue up to / 31/08/2015 before issuance of necessary instructions in this regard.

GOA

The **Govt. vide Circular No.1 of 2015-16 CCT/12-19/2015-16//2235, dated 17 August, 2015** issued clarification on Annexure A & B forming part of Form VAT III.

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

The **Govt. vide Bill No. 26 of 2015 on 11 August 2015 (now published)** presented The Goa Value Added Tax (Eighth Amendment) Bill, 2015.

OUR TAKE: There is amendment in section 29 and section 1 of Act 12 of 2013.

HARYANA

The **Govt. vide Notification No. 20/ST-1/H.A.6/2003/S.60/2015, dated 19 August, 2015** seek to

notify Haryana Value Added Tax (Second Amendment) Rules, 2015.

OUR TAKE: There is amendment in Rule 47 and Rule 51 for Lump sum VAT rate in respect of Brick kiln and Plyboard. Readers are requested to read the said Notification for the detailed amendments.

MAHARASHTRA

The **Govt. vide Circular No. 12T of 2015, dated 14th August, 2015 (now published)** generated the Computerized Desk Audit (CDA) for the period 2012-13.

OUR TAKE: The Govt. has generated Computerized Desk Audit (CDA) reports for the period 2012-2013 after analyzing electronic data pertaining to e>Returns, audit reports in form e-704 and annexures thereof uploaded by all the dealers based on certain parameters. The CDA for this period has resulted into findings of likely tax liability in respect of some of the dealers. The CDA findings for this period are available through dealers' access on the web site www.mahavat.gov.in and also dealers can submit compliance electronically. The dealer will not be required to visit the sales tax office for audit period if he agrees with the findings of the CDA and pays tax as per CDA along with applicable interests.

The **Govt. vide Circular No. 13T of 2015, dated 14 August, 2015** regarding Processing of Registration applications submitted along with scanned documents.

OUR TAKE: The circular is regarding the process of granting new registration under the M VAT Act, 2002, the CST Act, 1956 and PT Act which has been modified. The change in process is line with the government directives about providing ease of doing business in the state of Maharashtra. The Circular is with respect to:

- verification of the application,
- relaxation of some of the conditions of document verification,
- and actions after generation of TIN.

PUDUCHERRY

The **Govt. vide Circular No. 5088/CTD/HQ/2015, dated 20th August, 2015** instruction regarding some dealers who

are not issuing proper invoice with TIN for the purchases made by the General Public.

OUR TAKE: During the random check by the Department officials at the place of business of the dealers, if it is found that sales are made without proper Tax Invoice, immediate action would be taken against such dealer as per the said provisions of the Act. Therefore, it is requested to inform all dealers to issue proper Tax Invoice for all sales made, so as to avoid compounding and penalisation.

PUNJAB

The **Govt. vide Notification No. E&T/ETO(Ref)-2015/2289, dated 14 August, 2015 (now published)** hereby makes the following amendment in Schedule 'E' of Punjab Value Added Tax Act, 2005.

OUR TAKE: In the said Schedule 'E' at Serial No. 9 the word "All kinds of Batteries except Cell phone Battery, Torch Battery, Watch Battery and other Toys related batteries" & at Serial No. 10 the word "Mobile phones/Cell Phones including all its parts and accessories such as Head phones, Data Cable, Mobile charger, Memory Card, Ear Phone, Audio Device, Mobile Cover, Mobile battery, Blue tooth and Mobile holder".

RAJASTHAN

The **Govt. vide Notification No. F. 26(315)ACCT/MEA/2014/Part/Tax/6465, dated 14 August, 2015 (now published)** extend the date of submission of quarterly return in Form VAT 10, for the first quarter of the year 2015-16, i.e.; quarter ending on 30th June, 2015, to be furnished by the class of dealers covered under sub-rule (5)(b) of rule 19 of the Rajasthan Value Added Tax Rules, 2006, up to August 21, 2015.

OUR TAKE: The notification is self-explanatory.

The **Govt. vide Notification No. F. 12(74)FD/Tax/2014-20 dated 14 August, 2015 (now published)** fixes the amount of tax payable under the Rajasthan Value Added Tax Act, 2003, in respect to cigarette.

OUR TAKE: Readers are requested to read the said Notification. It contains the Rate of tax based upon respective categories of cigarette.

TELANGANA

The **Govt. vide Notification G. O. Ms No. 136, dated 17 August, 2015** hereby prescribes 7% as the rate of discount for calculating and paying the net present value of the deferred taxes by an industrial unit under the said rule. The discount rate of 7% prescribed in this notification is valid for a period of one year from the date of publication of the notification.

OUR TAKE: The notification is self-explanatory.

UTTARAKHAND

The **Govt. vide Notification No. 498/2015/24(120)/XXVII(8)/2010, dated 10 August, 2015 (now published)** seek to amend Schedule-II(B) of Uttarakhand Value Added Tax Act, 2005.

OUR TAKE: In Schedule-II(B) for the existing entry at serial no. 109, the word "Sweetmeat, Rewari, gajak and namkeen excluding packed branded namkeen" shall be substituted.

WEST BENGAL

The **Govt. vide Order dated 20 August, 2015** states that the date of filing return, under Bengal Value Added Tax Act, 2003 for the quarter ended 30.06.2015 is extended.

OUR TAKE: The extended date for Form 14/14D is 31.08.2015 (subject to rule 34A(3A)) for online return and 07.09.2015 for paper form of that return.

The extended date for Form 15 is 31.08.2015 for online return and to 07.09.2015 for paper form of that return.

COURT DECISIONS

CHALLENGER COMPUTERS LTD VERSUS COMMISSIONER OF TRADE & TAXES, DELHI (DELHI HIGH COURT)

BRIEF: ITC claimed against local purchases. Credit note is issued regarding input tax credit by seller post sale and

selling dealer does not reduce his output tax liability. Whether purchasing dealer required reversing input tax credit? Whether return filed purchasing dealer is false, misleading or deceptive? Whether liable to penalty?

OUR TAKE: The **Hon'ble DELHI HIGH COURT** held that it is apparent from the quoted provision that any reduction in the tax payable by the seller dealer on account of reduction in the sale price would correspondingly result in reassessment of the tax credit claimed by the buyer in cases where the goods have been sold by one registered dealer to another. No foundational facts have been brought out by the Department to sustain the demand with reference to Section 40A of the DVAT Act. Understandably therefore none of the impugned orders confirming the demand have based their conclusions on Section 40A of the DVAT Act.

In view of the above discussions, the impugned judgment of the Tribunal confirming the demand created on the Appellants in each of these appeals is held unsustainable in law and is hereby set aside. The corresponding orders of the VAT and the OHA in each of the appeals which were upheld by the Tribunal are also set aside.

The appeals are allowed in the above terms with costs of Rs. 10,000/- in each of the appeals.

OTHER UPDATES

COMPANY LAW

The **Govt. vide Notification dated August 19, 2015** makes National Company Law Tribunal (Salary, Allowances and other Terms and Conditions of Service of President and other Members) Rules, 2015

and National Company Law Appellate Tribunal (Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members) Rules, 2015.

OUR TAKE: Readers are requested to read the Notification for the said Rule.

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