



ASC Times

All India Taxes Weekly Referencer

Vol: January 25-31, 2015

Solving any tax puzzle

Tax saving advice across all the taxes



TAX CALENDAR

From the CEO's Desk



Dear Friends!!!!

Thank you all for the overwhelming response for our first issue of ASC Times. We are truly humbled and thrilled. All the feedbacks are really valuable and some of them we are trying to incorporate in the next issue itself. We will keep trying to make it more useful by each passing day. We hope to have your unwavering support in future also.

Friends, I am delighted to share with you that we at ASC had conducted a seminar on GST on 23rd January' 2015. And some eminent professionals in the field of finance and taxation from the corporate world had attended it. I am excited that all the participants not only appreciated our effort but also praised us for the thoughtfulness for doing a seminar on the subject and the logical interpretations and the visionary approach. With all your love and support we would like to have many more versions of it on any subject related to taxation and finance under the sun.

Please do send your queries and subjects, which you would like to have a seminar on. We will definitely try to do our level best.

Delhi is warming up for the elections and we can only hope to have a people friendly and especially business friendly government. As my bit, I would like to appeal to you all to use your right of voting in full force. Then only we can have what we want.

Once again thanking you all for your support.

Truly humbled.

Alok

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Due Date	Compliances from 25/01/15 to 31/01/15
25th Jan	E- Return of DVAT(Form 16 and CST 1) for the quarter ended Dec West Bengal Sales Tax TDS Certificate Issue for the month of Dec.,2014
28th Jan	Filing of DVAT Return(DVAT-56) Verification Form for quarter ended Dec Return of TDS for Dec quarter in DVAT-48
30th Jan	Issue of TDS/TCS certificate for quarter ended Dec. Filing of quarterly Return For Quarter Ending(Oct to Dec) and Monthly return for Dec Under Punjab Vat, and Tax payment
31st Jan	TDS returns for Dec Quarter for Govt. deductors Return No. 24Q, 26Q, 27EQ & 27Q Payment of VAT/CST/Entry tax for Dec West Bengal VAT/CST/ Entry Tax Return for the quarter ending Dec, 2014 Last Date for filing Maharashtra VAT Audit Report Payment & Monthly Return of Maharashtra PT (Annual Liability 50000 or more)

Country Wide Holidays for the Week

Date	State	Occasion/Festival
26th Jan	ALL INDIA	REPUBLIC DAY

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CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

UNION OF INDIA V/s ANDHRA PRADESH FEDERATION OF CHIT FUNDS (Supreme Court)

BRIEF: The High Court had held that Revenue is not correct to treat the chit fund business to fall within the ambit of asset management as there is a fine difference between “banking and financial services” as defined under the Act, and the services of the chit transactions. Further revenue cannot levy a tax for the first time on a totally new arena by issuance of a circular. The High Court had thus decided that the demand by the Revenue was unsustainable.

OUR TAKE: In the above case, the Hon’ble Supreme Court held that the Finance Act is not properly amended to bring within its fold chit transactions and thus, dismissed the appeal filed by the revenue.

DELOITTE HASKINS & SELLS V/s COMMISSIONER OF SERVICE TAX (CESTAT Chennai)

BRIEF: The appellants are providing taxable service under the category of Chartered Accountants Service. SCNs were issued proposing demand of tax with interest and penalties for non-maintenance of separate accounts for inputs services used towards taxable and non-taxable services.

OUR TAKE: In the above case, the Hon’ble CESTAT Chennai held that the demand for service tax is in respect of rendering of services to SEZs. Also, Amended Rule 6 (6A) of CCR 2004 would be effective retrospectively by Finance Act, 2012 for the period from 10.2.2006 to 28.2.2011. Thus the benefit of the same cannot be denied to the appellant. The matter was thus remanded back to adjudicating authority.

COMMISSIONER OF CENTRAL EXCISE, PUNE-I V/s. Ms BARCLAYS TECHNOLOGY CENTRE (I) PVT LTD (CESTAT Mumbai)

BRIEF: Service Tax had been paid on services that had been consumed in SEZs. The respondent later on claimed a refund that had been sanctioned by the Commissioner (Appeals). However, the Revenue Officer contended that vide notification No.15/2009-ST dated 20.5.2009 if service tax is charged by the service provider and paid by the unit in the SEZ the same cannot be claimed by way of refund w.e.f. 20.5.2009.

OUR TAKE: Notification No. 9/2009-S.T., “exempts” the taxable services specified in Clause (105) of Section 65 of the Finance Act, 1994 which are provided in relation to the authorized operations in a SEZ from the whole of the service tax leviable thereon under Section 66 of the Finance Act, 1994. In the abovementioned case, the Hon’ble CESTAT Mumbai held that where services are consumed entirely within the SEZ, there is no necessity to discharge the service tax liability ab-initio. However, that does not mean in any way that the appellant is not eligible or not entitled for refund of the service tax paid where service tax liability has been discharged. Since there was no dispute, the sanction of refund is correct.

DHANDAYUTHAPANI CANTEEN V/s CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL (Madras HC)

BRIEF: The appellant has been issued a SCN with a demand for service tax of Rs. 2,60,225/- along with education cess of Rs.5,204/- and penalty Rs.10,000/- under Section 76, Rs.1,000/- under Section 77 and Rs.10,000/- under Section 78 of the Act. Later on the penalty u/s 78 was increased to the total amount of service tax including cess. The assessee has filed an appeal against the revised penalty imposed under Section 78 of the Act.

OUR TAKE: In the above case, the Hon’ble Madras High Court held that the assessee had wilfully suppressed and concealed the value of taxable service provided by them. Once the ingredients of Section 78 is established, penalty equal to tax (including cess) has to be imposed on the party, which was rightly done by the revisional authority. Section 80 cannot be exercised in such cases. Thus, the decision was against the assessee and the penalty was rightly imposed.

THE KALLADIKKODE SERVICE CO-OPERATIVE BANK LIMITED V/s UNION OF INDIA REPRESENTED BY THE SECRETARY TO GOVERNMENT AND OTHERS (Kerala HC)

BRIEF: The petitioners' establishment is a co-operative society registered under the Kerala Co-operative Societies Act. The contention of the petitioners is that none of the activities being pursued by the petitioners' society will come within the purview of Section 65(12)(v) of the Finance Act, so as to attract payment of Service Tax. However, they have made the payment of service tax.

OUR TAKE: In the above case, the Hon'ble Kerala High Court held that in the course of adjudication exercise, if the authority arrives at a finding that the petitioners are not liable to service tax, then the amount of service tax already paid by the petitioners shall be refunded at the earliest within one month thereafter.

ACES UPDATE

"An email with new location code is being sent to assessees, who are getting migrated to new locations. Please update your email ID, if needed, to ensure receipt of the mail. An assessee can also check the location code through ACES website by clicking "Know Status of Assessee" tab and filling the registration number."

CENTRAL EXCISE

NOTIFICATIONS, CIRCULARS & INSTRUCTIONS

The Ministry Of Finance vide Notification No. 03/2015-Central Excise dated 16th January, 2015 further amends Notification No.12/2012-Central Excise, dated the 17th March, 2012 as already amended from time to time:

- i) in serial number 70 "Motor spirit commonly known as petrol"-
 - (a) against item (i) of column (3), for the entry in column (4), the entry "6.95 per litre" has been increased to "8.95 per litre"
 - (b) against item (ii) of column (3), for the entry in column (4), the entry "8.10 per litre" has been increased to "10.10 per litre";
- ii) in serial number 71 "High speed diesel(HSD)"-
 - (a) against item (i) of column (3), for the entry in column (4), the entry "5.96" shall be increased to "7.96 per litre";
 - (b) against item (ii) of column (3), for the entry in column (4), the entry "8.25 per litre" has been increased to "10.25 per litre"

ISSUE OF SUMMONS TO THE TOP SENIOR OFFICIALS OF THE COMPANY

The Central Board of Excise and Customs vide Order-Instruction - F. No. 207/07/2014-CX-6 dated 20th January, 2015 has clearly instructed that the summons should only be issued when it is utmost necessary. The initial practice of issuing summons to the senior managers of the company for

a mere purpose of producing evidences /documents or for recovery of the dues could easily be done with issuing a simple letters or verbal communication. The summons may only be issued when there are detailed evidences after investigation.

The detailed guidelines to be followed in relation to the issue of summons, in case of both Central Excise and Service Tax matters, are provided in the instructions.

OUR TAKE: The CBEC has opined that where a simple letter, politely worded, can serve the purpose of securing documents relevant to investigation, there is no need to issue such summons. The summons may be used only as a last resort when it is absolutely necessary.

COURT DECISIONS

UNION OF INDIA & ANR V/s SHARP MENTHOL INDIA LTD. (Supreme Court)

BRIEF: The assessee took credit of duty paid on menthol and utilized it for paying the duty on clearance of the final products namely, menthol crystals and peppermint oil. The assessee has cleared menthol crystals for export under bond without payment of excise duty, and peppermint oil for export on payment of excise duty by debiting the input credit availed on menthol used in the manufacture of final products.

Notification No.4/2008-C.E. dated 1/3/2008 states that excise duty on menthol crystals is exempted. The CCE, New Delhi has opined that since menthol crystals manufactured from menthol was exempt from payment of duty, the credit of duty paid on menthol (input) was not available and consequently, the assessee could not have utilized the said input credit in paying the excise duty on clearance of peppermint oil for export.

OUR TAKE: In the above case the Hon'ble Supreme Court seconded the decision taken by the Hon'ble Bombay High Court which held that though Rule 6(1) of CCR 2004 disallows duty paid on inputs used in the manufacture of exempted final products, but Rule 6(2) of CCR 2004 provides that where the inputs are used in the manufacture of exempted as well as dutiable final products then credit of duty paid on inputs used in the manufacture of dutiable final products is allowable, provided separate accounts regarding the receipt, consumption and inventory of the input used in the manufacture of dutiable final product are maintained.

COMMISSIONER OF CENTRAL EXCISE, NAGPUR V/s M/s AMBUJA CEMENT LTD (CESTAT Mumbai)

BRIEF: The assessee is a manufacturer of cement and uses fly ash as one of its important raw materials for manufacture of cement. The assessee entered into an agreement with Chandrapur Thermal Power Station to construct a fly ash handling facility in the premises of CTPS. The respondent availed CENVAT Credit of Service Tax paid on various services such as erection, commissioning of fly ash handling plant, maintenance and repair of the plant, etc for the fly ash handling plant. The Revenue disallowed the Cenvat Credit availed by the assessee on such services with respect to the ash handling system as the structure for handling system is situated outside its cement plant.

OUR TAKE: In the above case the Hon'ble CESTAT Mumbai held that services of Fly Ash Plant set up by the assessee has been used by it in procuring its raw material for the purpose of manufacture of its end product being cement. Thus, the expenses incurred at the Handling Plant are in the nature of expenditure for the purpose of manufacture of its end product and in such circumstances, the services availed by the respondent assessee at the fly ash handling plant are inputs services eligible within the meaning of Rule 2(l) of Cenvat Credit Rules, 2004 for the purpose of manufacture of its final product.

M/S. DD INDUSTRIES LTD. & OTHERS V/s CCE, DELHI (CESTAT New Delhi)

BRIEF: The issue involved is valuation of goods manufactured by the appellants which were sold to M/s. DD Sales Corporation. The impugned order held that such sales were to the related person and therefore the valuation has to be done as per the sale price of M/s. DD Sales Corporation.

OUR TAKE: In the above case, the Hon'ble CESTAT New Delhi held that the assessee has not cleared the goods clandestinely. Since, the appellants have contended that they had given all the evidence relating to the turnover discount and cash discount and same being not properly taken into account at the time of deciding the issue, the matter has been remanded back.

CUSTOMS

NOTIFICATIONS & CIRCULARS

IMPORT AND EXPORT OF CURRENCY

The CBEC vide Circular No. 03/2015-Customs dated 16th January, 2015 has provided that the RBI vide A.P. (DIR

series) No. 146, dated 19.06.2014 has notified the amount of export and import of currency. That:

- a) any person resident in India:
 - i) may take outside India (other than to Nepal and Bhutan) currency notes of Gol and RBI notes up to an amount not exceeding 25,000 (Rupees twenty five thousand only); and
 - ii) who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Gol and RBI notes up to an amount not exceeding 25,000 (Rupees twenty five thousand only).
- b) any person resident outside India, not being a citizen of Pakistan and Bangladesh and also not a traveler coming from and going to Pakistan and Bangladesh, and visiting India:
 - i) may take outside India currency notes of Gol and RBI notes up to an amount not exceeding 25,000 (Rupees twenty five thousand only) while exiting only through an airport.
 - ii) may bring into India currency notes of Gol and RBI notes up to an amount not exceeding 25,000 (Rupees twenty five thousand only) while entering only through an airport.

OUR TAKE: The passengers can now carry the amount as per the specified limits in the said denominations. The officers are also requested to ensure that the aforementioned guidelines are scrupulously followed and that the passengers are not harassed unnecessarily.

SIMPLIFICATION OF CUSTOMS PROCEDURES FOR SHIPPING

The CBEC vide Circular No. 02/2015-Customs dated 15th January, 2015 has simplified customs procedures for timely & economical shipping to make Indian ports international transshipment hubs.

OUR TAKE: The avoidable delays on account of non-uniform Customs procedures adopted at some ports/Customs stations not only increase transaction cost and time of clearance but also becomes major obstacle in making Indian ports international transshipment hubs. Therefore the procedures have been simplified so as to reduce the compliance procedures relating to documentation which leads to unnecessary escalation of compliance cost. Intimation from the carrier to the jurisdictional Commissioner of Customs will serve the case of change of mode of transshipment and no separate permission is required.

COURT DECISIONS

THE COMMISSIONER OF CUSTOMS (I&G) V/s NAVSHIV RETAILS PVT. LTD. (Delhi HC)

BRIEF: The Revenue is of the opinion that the mobile phones which were imported did not have requisite International Mobile Equipment Identification (IMEI) number. The import of the said mobile phones was illegal and a threat to national security. As a result, the authorities confiscated the goods and imposed fines and penalties on grounds that the mobile phones did not bear any IMEI Numbers.

OUR TAKE: In the above case, the Hon'ble Delhi High Court held that the mobile handsets did have IMEI numbers. The mobile handsets were still the same, only the casing had been changed and therefore there hasn't been any tampering with the IMEI Numbers. Therefore there is no chance of misuse and accordingly no threat to national security and appeal of the Revenue was dismissed.

ALCAN INDIA PVT LTD V/s COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI (CESTAT Mumbai)

BRIEF: The Revenue had included the BU fees and legal and professional fees paid by the appellant for determination of assessable value of goods. The assessee submitted that the payments made had nothing to do with the import of raw materials nor was the services received a condition of sale for the imported goods.

OUR TAKE: In the above case, the Hon'ble CESTAT Mumbai held that the impugned orders do not specify, under which clause of Rule 10 (1), the service charges are includible in the assessable value of the goods imported. It is stated that for application of clause (e) of Rule 10 (1), the payment should have been made as a condition of sale of the goods imported but there is nothing as such in the agreements. Thus the relating of payments made for the services received to the value of the goods imported is not justified.

INCOME TAX

NEW DRAFT OF TWELVE INCOME COMPUTATION AND DISCLOSURE STANDARDS (ICDS)

Section 145 of the Indian Tax Laws (ITL) gave the power, effective from tax year 1996-97, to the Central Government (CG) to notify Income Computation and Disclosure Standards

(ICDS) to be followed by any class of taxpayers or in respect of any class of income.

After examining suggestions received from stake holders, the Central Board of Direct Taxes (CBDT) has released revised drafts of 12 ICDS. These are mentioned below:

1	Significant Accounting Policies
2	Valuation of Inventories
3	Construction Contracts
4	Revenue Recognition
5	Tangible Fixed Assets
6	The effects of Changes in Foreign Exchange Rates
7	Government Grants
8	Securities held as stock in trade
9	Borrowing Costs
10	Leases
11	Intangible Assets
12	Provisions, Contingent Liabilities and Contingent Assets

OUR TAKE: The Comments from stakeholders and general public on these draft ICDSs are to be submitted by 08.02.2015. It is imperative for all stakeholders to make representations on possible adverse impacts and/or for making improvements to address unintended consequences. This could probably be the last opportunity to make such representations which stakeholders should not miss. The ICDSs are to be made effective from the financial year commencing from 01.04.2015.

NOTIFICATIONS & CIRCULARS

FURNISHING OF STATEMENT OF INCOME BY A BUSINESS TRUST

The CBDT vide **Notification No. 03/2015 dated 19th January 2015** hereby amends the Income tax Rules, 1962. As per the **newly inserted Statement under sub-section (4) of section 115UA after rule 12C**, every business trust shall furnish the statement of *income distributed to its unit holder*

- in **form 64A**, duly verified by an accountant, to the Principal Commissioner or the Commissioner of Income-tax under whose jurisdiction the principal office of the business trust is situated, by the **30th November** ;
- in **form 64B**, duly verified by the person distributing the income on behalf of the business trust, to the unit holder by the **30th June**;

of the financial year following the previous year during which the income is distributed.

OUR TAKE: The DGIT (Systems) shall specify the procedure for filing of Form No 64A and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished. Please refer the notification for the relevant forms.

EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE (NO.2) ACT, 2014

The **CBDT** vide **Circular No. 01/2015 dated 21st January 2015** hereby takes us through the amendments to Finance (No.2) Act, 2014. The amendments relate to a number of sections and schedules. Please refer the Explanatory notes to the Provisions of the Finance (No.2) Act, 2014 mentioned in the Circular for the same.

These amendments shall come into effect from 1st April 2015.

COURT DECISIONS

COMMISSIONER OF INCOME TAX V/s NARANLALA LTD (Gujarat HC)

BRIEF: The assessee, a company engaged in the business of manufacturing distillery and alcohol based chemical plant had filed return of income after considering the expenditure on account of depreciation on cylinders. The Assessing Officer disallowed the same.

OUR TAKE: In the above case, the Hon'ble Gujarat High Court held that cylinders are business assets of the assessee. As the cylinders were required to be filled and kept ready for use of business purpose, depreciation ought to have been allowed.

ASSISTANT COMMISSIONER OF INCOME V/s CREATIVE PROCESSING LTD. (Gujarat HC)

BRIEF: The Assessing Officer has noted here that the assessee had obtained unsecured loans from one of its group concerns and paid interest at a much higher rate than the prevailing market rate and thus disallowed the excess interest paid.

OUR TAKE: In the above case, the Hon'ble Gujarat High Court held that if the Tribunal was satisfied that the expenditure was laid out or expended wholly and exclusively for the purpose of the business of the assessee there was no reason why the full amount expended should not have been allowed. Hence, it was decided in favour of the assessee.

COMMISSIONER OF INCOME TAX, CHENNAI. V/s M/S. IRBAZ SHOE Company (Madras HC)

BRIEF: The assessee is a partnership firm engaged in the manufacturing of leather shoe uppers. The assessee had claimed foreign travel expenses spent on the wife of the partner of the firm and also on others while calculating the income for the relevant A.Y. The CIT (Appeals) considered these expenses as personal in nature and disallowed the foreign travel expenses.

OUR TAKE: In the above case, the Hon'ble Madras High Court held that as per the partnership deed, the wife of the assessee was one of the partners of the firm. On the basis of the partnership deed, the benefit of the expenses cannot be denied to the assessee. Hence the expenses incurred towards foreign travel of the wife of the partner along with other persons should be treated as expenditure incurred wholly and exclusively for the purpose of the business and cannot be disallowed.

THE COMMISSIONER OF INCOME TAX AND THE DEPUTY COMMISSIONER OF INCOME TAX, BANGALORE V/s M/S. MAC CHARLES (INDIA) LIMITED (Karnataka HC)

BRIEF: The assessee is Public Limited Company carrying on the business of hotel. The Assessing Authority disallowed expenditure incurred under repairs and Maintenance of the hotel building stating that the expenditure incurred was capital in nature.

OUR TAKE: In the above case, the Hon'ble Karnataka High Court held that neither any new asset is being constituted nor extra flooring space / extra room capacity is added on account of such repairs. It cannot be said that a new asset has come into existence. The expenditure is incurred to preserve and maintain the existing asset. Hence, expenditure incurred towards repairs and replacement of old parts would be in the nature of revenue expenditure and not capital expenditure.

STATE TAXES

ALL INDIA VAT

NOTIFICATIONS & CIRCULARS

TELANGANA

The **Govt. of Telangana** vide **Notification No. G.O.Ms.No.3 dated 17th January, 2015** hereby amends the entry against item no.(2) "PETROL" in column No.(4) in Schedule-VI. The

rate of tax for the figure and percentage "31%", shall be substituted with "31%+ Two rupees per litre".

Also, against item No.(5) "**DIESEL OIL[All kinds of Diesel Oils including C-9]**" in the same schedule, in column No.(4), the rate of tax for the figure and percentage "22.25%" shall be substituted with the figure and percentage "22.25%+ Two rupees per litre"

OUR TAKE: There is an increase in the rates of both the items by two rupees.

MAHARASHTRA

EXTENSION OF TIME FOR FILING VAT AUDIT REPORT FOR THE YEAR 2013-14

The **Govt. of Maharashtra vide Trade Circular 14T of 2014 dated. 20/12/2014** has extended the time limit for filing VAT Audit report in Form No.704 by dealers for the year 2013-14, up to **31.01.2015**, which earlier was 15th January, 2015 and submit the physical copy of the acknowledgement and the Statement of Submission of Audit Report or before 10 February 2015.

OUR TAKE: The Maharashtra VAT Department has provided an extension of time for completing VAT Audit till 31.01.2015 which would have got time barred otherwise on 15.01.2015.

ANDHRA PRADESH

INSTRUCTIONS ISSUED TO OFFICERS FOR CHECKING THE EVASION OF TAX IN "SUGAR" COMMODITY

The **Govt. of Andhra Pradesh vide Circular dated 17th January 2015** has come up with instructions to stop the clandestine removal of goods at the place of consumption within Andhra Pradesh. In order to check malpractices and arrest tax evasion the officers should adopt the measures as per the instructions. Proper inquiries should be conducted to ascertain the genuineness of the transaction. The digital photos of the goods vehicle (with Transit pass) with number plate, exiting the check post should be kept for record purpose.

OUR TAKE: There is a rampant tax evasion in "Sugar" Trade. The same modus operandi is being followed by almost all tax evading dealers in Andhra Pradesh. Therefore to curtail tax evasion the officers are instructed to follow the measures specified and organize vehicular traffic checks in their divisions immediately to ensure that no sugar lorry escapes without being accounted for in the books of accounts and 100% tax from this is realized.

PUNJAB

COMPULSION OF FILING VAT-16 ONLINE

With reference to option given to dealers w.e.f. 01.09.2014 for filing VAT-16 returns online, **Govt. Of Punjab (Dept Of Excise And Taxation) vide public notice dated 01.01.2015** has informed that the Department will accept the monthly returns in Form VAT-16 for the Month of January, 2015 to be filed in February, 2015 and onwards **online only** and no return in Form VAT-16 will be accepted in physical format.

OUR TAKE: The dealers are therefore advised to follow the same procedure of electronic system of filing VAT-16 returns online as no physical returns here onwards will be accepted for the same.

WEST BENGAL

AMENDMENTS IN THE WEST BENGAL STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS RULES, 1979

The **Govt. of West Bengal vide Notification No 02-F.T.-dated 2nd January, 2015** hereby amends **Rule 12C (QUARTERLY RETURN)** and provides that where a registered employer, who is required to furnish return under sub-rule (1) electronically in Form III in respect of a return period referred to in column (2) of the Table appended and where the tax and interest, if any, payable according to that return are paid within the date specified, transmission of data electronically pertaining to that return period is completed within the date as referred and furnishing of Form III in paper form in respect of that period is made within the date mentioned shall, notwithstanding anything contained in sub-rule (1) and this sub-rule, be deemed to have been furnished within the prescribed date.

It also amends **Rule 12D (ANNUAL RETURN)** by adding that where a registered employer, who is required to furnish return under sub-rule (1) electronically in Form III in respect of a return period referred to in column (2) of the Table appended and where the tax and interest, if any, payable according to that return are paid within the date specified, transmission of data electronically pertaining to that return period is completed within the date as referred and furnishing of Form III in paper form in respect of that period is made within the date mentioned shall, notwithstanding anything contained in sub-rule (1) and this sub-rule, be deemed to have been furnished within the prescribed date. The table is appended to the said notification.

OUR TAKE: The West Bengal Department has made amendments to specify the dates of submission of returns and hard copies to the Dept. Dealers are requested to refer the notification. The notification shall be deemed to have come into force with effect from 1st day of April, 2014.

SUPREME COURT DECISION

ASSISTANT COMMISSIONER, ERNAKULAM V/s HINDUSTAN URBAN INFRASTRUCTURE LTD. AND ORS. (Supreme Court)

BRIEF: The Official Liquidator of the company is involved in the sale of assets the liquidating company through an auction. The appellant contended that the Liquidator is liable to pay tax as and when a sale of assets of the company in liquidation is affected by him. The Liquidator claims that the auction purchaser would be liable to pay tax on the purchase of goods as may be leviable by the Sales Tax Department.

OUR TAKE: In the above case, the Hon'ble Supreme Court held that the company in liquidation is a "dealer" with regard to the sale of its assets by way of an auction under a winding up order. Thus, the official liquidator in-charge of the business on behalf of the dealer would be eligible to sales tax in the same manner as it would have been leviable upon and recoverable from the dealer itself. Hence, it was concluded that the liability to pay sales tax would be on the Official Liquidator in the same manner as the dealer, i.e., the Company in liquidation.

OTHER UPDATES

MCA

FILING OF DIR-12 IN CASE OF FOREIGN DIRECTOR

The MCA vide Notification dated 19th January 2015 amended the Company (Appointment and Qualification of Directors) Rules, 2014 by inserting in Rule 16 the following provision:

" In case a company has already filed form DIR-12 with the Registrar under Rule 15, a foreign director of such company resigning from his office may authorize in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign Form DIR-11 and file the same on his behalf intimating the reasons for the resignation".

NOTICE OF ADDRESS AT WHICH BOOKS OF ACCOUNTS ARE TO BE MAINTAINED

The MCA vide Notification dated 16th January 2015 hereby amends the Companies (Accounts) Rules, 2014 with the following:

- Rule 2A shall be inserted after Rule 2 which mentions that for the purposes of the first proviso to 128(1), the notice regarding address at which books of accounts may be kept shall be in Form AOC-5.
- Another proviso to be added after the third proviso to Rule 6 namely "Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April 2014.

Please refer the notification for Form AOC-5.

RBI

FOREIGN EXCHANGE MANAGEMENT (FOREIGN CURRENCY ACCOUNTS BY A PERSON RESIDENT IN INDIA) REGULATIONS, 2000 – REMITTANCE OF SALARY

The RBI vide A.P. (DIR Series) Circular No.62 dated 22nd January, 2015 has clarified that remittance of salary outside India can be affected for employees on deputation to a group company in India and for employees of Limited Liability Partnership.

PAYMENTS INTO GOVERNMENT ACCOUNT THROUGH DEBIT / CREDIT CARDS AND NET BANKING: PERMISSIBLE PERIOD FOR REMITTANCE

The RBI vide Circular DGBA.GAD No.H-3203/42.01.011/2014-15 dated 21st January, 2015 hereby advises that as per the instructions of the Controller General of Accounts, Ministry of Finance, Government of India, agency banks are required to adhere to the following additional norms for payment of government revenue through Debit / Credit cards and Net banking:

- Remittance norms of T + 1 working day, including the Put Through date should be strictly followed, where "T" is the day when money is available with the receiving bank branch.
- Penal interest will be levied on delayed remittances of e-receipt into government account, i.e., on delay beyond T+1 working day, if any, and
- The settlement should conform to the provisions contained in the Payment and Settlement Systems Act 2007 and the rules and regulations framed there under.

FAQS ON GST

Q.1. **What is GST?**

A. GST stands for Goods and Service Tax. It is a comprehensive value added tax.

Through a tax credit mechanism, GST is collected on value added goods and services at each stage of sale or purchase in the supply chain. GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. But being the last person in the supply chain, the end consumer has to bear this tax and so, in many respects, GST is like a last-point retain tax.

Q.2. **Why constitutional amendment is necessary to introduce GST?**

A: Our constitution does not provide for any concurrent taxing powers to the Union as well as the States. To introduce GST, amendment of constitution is necessary conferring simultaneous powers on Parliament as well as the State Legislatures to make laws levying goods and services tax on every transaction of supply of goods or services or both.

Q.3. **Which are the Central Taxes to be subsumed under GST?**

- (a) Subsuming of various Central and State Indirect taxes and levies like Central Excise duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Custom Duty commonly known as countervailing duty (CVD), Special Additional Duty of Customs (SAD), Central surcharges and Cesses (excluding those applicable to income tax, customs duties and to excise duties in so far as they relate to goods outside the purview of the goods and services tax);
- (b) Subsuming of State VAT/Sales Tax, Entry Tax, Entertainment tax (unless it is levied by the local bodies), Luxury Tax, Taxes on lottery, betting and gambling, tax on advertisements, State Cesses and Surcharges in so far as they relate to supply of goods and services and Entry Tax, not levied by the local bodies.

Q.4. **How GST will have its impact on revenue for the producing states?**

A. GST is a consumption based tax and not origin based. Under GST structure, the tax would be collected by the states where the goods or services are actually consumed i.e. where the goods are actually sold and not the goods where it is actually originated. Hence, losses could be heavy for producing states. In view of the above, the Centre is considering a proposal to compensate states for any revenue loss that they might suffer on implementation of the Goods and Services Tax. The move is expected to encourage the producing states to adopt the new tax structure scheduled to be implemented from April 1, 2016.

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