ASC Times

All India Taxes Weekly Referencer

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From the CEO's Desk

Dear Reader,

The report on minimum alternate tax (MAT) on foreign institutional investors (FIIs), is been submitted by the committee appointed by government and headed by Justice A.P. Shah to the finance minister on Friday, 24th July'2015. The content of the report have not been disclosed as yet and speculations around MAT are still on. "It's a 66-page report. We have received responses from industry, chartered accountant firms, Central Board of direct taxes and leading advocates," Mr. Shah said after submitting the report to Mr. Jaitley. Any clarity on MAT is expected when the Supreme Court would be hearing the petition filed by Castleton on the levy of MAT next month.

The bill on GST is still pending in Rajya Sabha and the opposition is determined to give a tough ride to the ruling BJP (Bhartiya Janta Party) as the latter is in minority in the Rajya Sabha. State governments are suspicious about GST as they think that levying of GST will impact their tax collections negatively. Here I would like to share my view that if we look at the big picture, isn't it about a reform that will benefit everyone, be it the governments or the people of India. We are a democratic country with a federal government where states were made for the ease of governance. But now we are so limited in our thinking and vested interests that we simply overlook the fact and keep on fighting over territories forgetting the nation. FYI, Since the GST Bill is a constitutional amendment bill; it has to be passed with 2/3rd majority in both houses of Parliament.

E-commerce companies are not letting any stone unturned to lure the customers and one can find almost everything sold online. Offers are great and numbers are promising over which these portals get funding. Now the question is what is the revenue model they are working on? Secondly, till when these companies will rely on the VC or Angel funding's? Don't you think it is time that they start thinking of repayment to the funders? In the long run no business model can sustain without making profits. There will be a day when VC would start asking for their money back. So wake up guys and be authentic to survive forever as future of e-commerce or rather m-commerce is bright but one needs to be realistic. And for costumers, discounts only should not be the criteria for purchases but quality, timely delivery, aftersales services and safe payment options should be the determinants.

Alok Kumar Agarwal
CEO
ASC Group.

TAX CALENDER

Due Date	Description	Law
28th July	Return filing	Arunachal Pradesh VAT, Delhi VAT (Date Extended)
	Tax Payment	Arunachal Pradesh VAT
30th July	Return filing	Andhra Pradesh VAT, Chhattisgarh VAT, Goa VAT, Gujarat VAT, Himachal Pradesh VAT, Madhya Pradesh VAT, Punjab & Chandigarh VAT
	Tax Payment	Andhra Pradesh VAT, Chhattisgarh VAT, Goa VAT, Himachal Pradesh VAT, Madhya Pradesh VAT, Mizoram VAT, Punjab & Chandigarh VAT, Telangana VAT
	TDS Return	Himachal Pradesh VAT
	Quarterly TDS certificate or quarterly TCS certificate for the quarter ending June 30, 2015	Income Tax Law
31st July	Annual return where audit is not required other than for a company (Form 9)	Sikkim VAT
	Return Filing	Bihar VAT, Goa VAT, J & K VAT, Mizoram VAT, Nagaland VAT, Sikkim VAT, Tripura VAT
	Tax Payment	Goa VAT, J & K VAT, Tripura VAT
	Annual VAT Return	J & K VAT
	Submission of return	Haryana VAT
	Due date for issue of TDS Certificate u/s 194IA, Quarterly return of non-deduction of tax at source by a banking company & Quarterly statement of tax deducted if the deductor is an office of the	Income Tax Law

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
31st July	Martyrdom Day of Shahid Udham Singh	Punjab
2nd August	Liberation Day for Dadra and Nagar Haveli	Dadra & Nagar haveli

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CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

COMMISSIONER OF CENTRAL EXCISE, BHAVNAGAR VERSUS M/S. GUJARAT MARITIME BOARD, JAFRABAD (SUPREME COURT)

BRIEF: It is the Board itself that charges or recovers wharfage charges from the licensee UCL and does not authorize UCL to recover such charges from other persons. This being the position it is clear that no service is rendered by a port or by any person authorized by such port and therefore the very first condition for levy of service tax is absent on the facts of the present case.

OUR TAKE: The **Hon'ble SUPREME COURT** held that though GMB is the owner of the jetty under the said agreement, yet for providing the service of allowing a vessel to berth at the said jetty, it is necessary for GMB itself to keep the said jetty in good order.

Wharfage charges are collectible because they are in the nature of fees for services rendered. The expenses that are defrayed by the Board for the maintenance of the jetty is sought to be collected as wharfage charges. This amount would necessarily include all amounts that are spent for keeping the said jetty in good condition including dredging so that vessels can berth alongside the jetty. It is clear that so far as jetties operated by the Board are concerned, the Board itself defrays such expenses. It is only in cases like the present where the jetty is primarily meant for loading and unloading goods belonging to a particular private party that repair and maintenance expenses are to be borne by the private party and not by the Board. It is in this circumstance that we find that there is no service, therefore, rendered by GMB to UCL.

Authority given to perform any of the services must first and foremost be under terms and conditions as may be agreed upon by the Board and the private person. Further, under sub-Section (4) of Section 32, it is the private person who is then authorized to charge or recover any sum in respect of such service rendered. This is conspicuously absent in the aforesaid agreement. There is no doubt on a reading of the agreement that it is the Board itself that charges or recovers wharfage charges from the licensee i.e. UCL and does not authorize UCL to recover such charges from other persons. This being the position, it is clear that no service is rendered by a port or by any person authorized by such port and, therefore, the very first condition for levy of service tax is absent on the facts of the present case. So far as the direct berthing facilities provided for captive cargo is concerned, the lease rent charged for use of the waterfront also does not include any service in relation to a vessel or goods and cannot be described as "port service". **[Decided against Revenue]**

COMMISSIONER OF CENTRAL EXCISE, GOA VERSUS NEW ERA HANDLING AGENCY (SUPREME COURT)

BRIEF: Assessee provide packaging service to fertilizer manufactured by other company. Appellant being a manufacturer is doing the packaging activity not liable to service tax.

OUR TAKE: The **Hon'ble SUPREME COURT** after hearing the parties did not find any good reason to interfere with the judgment and order passed by the Customs, Excise and Service Tax Appellate Tribunal [2014 (11) TMI 277 - CESTAT MUMBAI], wherein Tribunal held that, appellant being a manufacturer is doing the packaging activity and does not fall under packaging activity defined in section 65(76b) of the Finance Act, 1994.

M/S GSPL INDIA TRANSCO LTD AND M/S GSPL INDIA GASNET LTD (ADVANCE RULING AUTHORITY)

BRIEF: Applicant is eligible to avail CENVAT Credit of the Service Tax that would be paid by the EPC Contractor/other construction contractors and other service providers (except for Service Tax paid vis-a-vis construction services for the civil works package for building the pipeline substations).

OUR TAKE: The **Hon'ble ADVANCE RULING AUTHORITY** held that applicant has given a detailed description of process followed in laying pipelines, which includes site preparation, pipe transportation, pipe stringing, pipe welding, trenching, external coating, lowering in, back filling and land restoration. It is observed that both the above referred services to be excluded from the scope of "input service" are to be used for support of capital goods.

There is no doubt that the subject goods i.e. pipes and valves, are capital goods but the input service to be rendered by the applicant is not for support of pipes and valves i.e. "capital goods" but for laying of pipeline for transport of gas. As input service received by the applicant from EPC contractors and others is not for laying of foundation or making of structure for support of capital goods, same does not fail under the exclusion clause.

Applicant is eligible to avail CENVAT Credit of the Service Tax that would be paid by the EPC Contractor/other construction contractors and other service providers (except for Service Tax paid vis a vis construction services for the civil works package for building the pipeline substations) against the applicant's output service tax liability under the taxable output service in the nature of transport of gas through pipelines. [**Decided in favour of assessee**]

M/S GSPL INDIA TRANSCO LTD AND M/S GSPL INDIA GASNET LTD (ADVANCE RULING AUTHORITY)

BRIEF: Capital goods are used to provide output services. The applicant is eligible to CENVAT Credit of Central Excise duty paid by the manufacturer on pipes and valves on the basis of documents issued by intermediary dealer would be as per Central Excise Rules read with CENVAT Credit Rules only when said intermediary dealer is a registered dealer.

OUR TAKE: The **Hon'ble ADVANCE RULING AUTHORITY** held that in present case, capital goods (pipes and valves) are to be used for providing output service and it is not relevant whether these goods provide such service by being embedded to the earth. Therefore, we agree with the applicant that the relevant date to determine whether an item qualifies to be 'capital good' is the time of its receipt and not subsequent date.

Since the applicant would receive the pipes and valves as owners and then issue them on bailment to the EPC contractor for a specific purpose of providing services to bring into existence a pipeline. Therefore, the contention of Revenue that when pipes and valves are transferred from manufacturer to the applicant, applicant would get possession of pipes and valves from the manufacturer but same is not for consideration and thus, there would be no "sale" in terms of Section 2 (h) of Central Excise Act, 1944, is factually incorrect.

EPC contractor, who pays for the goods to the manufacturer, may direct said goods to be delivered at applicant's site, without it coming to the premises of EPC contractor and he (EPC contractor) need not be a "registered dealer" with the Central Excise. However, applicant cannot take CENVAT Credit of Central Excise duty paid on pipes and valves on the basis of invoice issued by "intermediary dealer", until and unless, this intermediary dealer is a "registered dealer". Therefore, the contention that the applicant is eligible to CENVAT Credit of Central Excise duty paid by the manufacturer on pipes and valves on the basis of documents issued by "intermediary dealer", would be as per Central Excise Rules read with CENVAT Credit Rules, only when said "intermediary dealer" is a "registered dealer".

Appellants are eligible to avail CENVAT Credit of excise duty that would be paid on the pipes and valves procured from the manufacturer against the applicant's output service tax liability for services in the nature of transport of gas through pipeline, provided, invoice for said CENVAT Credit of Central Excise duly on pipes & valves, is issued by "registered dealer".

CENTRAL EXCISE

COURT DECISIONS

BARODIA PLASTICS PVT. LTD. VERSUS COMMISSIONER OF CENTRAL EXCISE (PUNJAB AND HARYANA HIGH COURT)

BRIEF: Where the goods have been destroyed in an accidental fire, the finding recorded by the Tribunal that the appellant has not proved that the insurance claim does not include Excise duty is perverse and therefore could not form the basis for dismissing the appeal.

OUR TAKE: The **Hon'ble PUNJAB AND HARYANA HIGH COURT** held that a perusal of the Tribunal's order reveals a consideration which is neither logical nor founded in law as insurance companies do not provide insurance against payment of taxes much less payment of Excise duty. The finding recorded by the Tribunal that the appellant has not proved that the insurance claim does not include Excise duty, is in our considered opinion perverse and, therefore, could not form the basis for dismissing the appeal. The appellant having placed the letter issued by the insurance company before the Tribunal and having filed relevant documents before this Court, it would be appropriate and in the interest of justice to allow the appeal, set-aside the order passed by the Tribunal and remits the matter to the Tribunal for adjudication afresh and in accordance with law. [**Decided in favour of assessee**]

COMMISSIONER OF CENTRAL EXCISE VERSUS UNITED PHOSPHORUS LTD. (GUJARAT HIGH COURT)

BRIEF: The issue is regarding MODVAT Credit on captive consumption of capital goods. The situation might have been different had the Revenue succeeded in establishing that the electricity generated by the assessee was not used captively but sold outside. Credit is allowed by Court.

OUR TAKE: The **Hon'ble GUJARAT HIGH COURT** held that quite apart from the decision of the Chennai Bench in case of Kothari Sugars & Chemicals Ltd. (2005 (11) TMI 124 - CESTAT, CHENNAI), we are informed, is carried in appeal before the Madras High Court and is pending, we notice that

the Supreme Court in case of Collector of Central Excise v. Solaris Chemtech Limited reported in [2007 (7) TMI 2 - SUPREME COURT OF INDIA] has occasion to deal with a substantially similar issue. It was held that when inputs are used to generate electricity which is captively consumed for manufacture of final product, the assessee would be entitled to MODVAT Credit in view of the expression "used in relation to the manufacture" used in the statute. The situation might have been different had the Revenue succeeded in establishing that the electricity generated by the assessee was not used captively but sold outside. [**Decided against Revenue**]

COMMISSIONER OF CENTRAL EXCISE, DELHI VERSUS HALDIRAM INDIA PVT. LTD. (DELHI HIGH COURT)

BRIEF: Tribunal has no power to extend stay beyond the period of 365 days. Discretionary power vests with the HC under Article 226 of the Constitution.

OUR TAKE: The **Hon'ble DELHI HIGH COURT** held that the Tribunal is bound by the provision and that the power to extend such interim orders is dependent on the exercise of discretion by the High Court under Article 226 of the Constitution. In these circumstances, the impugned order cannot be sustained. Decision in the case of CIT v. Maruti Suzuki (India) Ltd. [2014 (2) TMI 1037 - DELHI HIGH COURT] followed. [**Decided in favour of Revenue**]

C.C.E. VERSUS M/S D.J. SANSTHAN (ALLAHABAD HIGH COURT)

BRIEF: Classification of goods as shampoo or ayurvedic liquid soap. Deliberate suppression of production and clearance of excisable goods. Tribunal has misread the findings recorded in the order in original. Demand confirmed.

OUR TAKE: The **Hon'ble ALLAHABAD HIGH COURT** held that Bare perusal of Section 11A(1) of the Act clearly shows that the extended period of limitation of five years may be invoked, if the central excise duty has not been levied or has not been paid or short levied or short paid or erroneously refunded by reason of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of the Act or Rules made there under with intention to evade payment of duty. Clear findings of deliberate suppression of fact, clandestine removal of goods and evasion of central excise duty have been recorded. The Tribunal has not set aside those findings. In fact it has misread the findings recorded in the order in original. Under the circumstances the order of the Tribunal suffers from manifest error of law and the finding recorded with respect to the extended period of limitation is bad. It is also relevant to note that on the question of classification the Tribunal itself has found that the stand in regard of department is correct. There remained no dispute that the goods in question were excisable goods and therefore removal of such goods without paying duty was in contravention of the provisions of the Act and Rules applicable and, therefore, the conditions mentioned under Section 11 A(1) of the Act were satisfied. Thus the extended period of limitation under the proviso to Section 11 A(1) of the Act was lawfully invoked. The respondent-assessee is liable to interest and penalty in accordance with law. [**Decided in favour of Revenue**]

CUSTOMS

NOTIFICATIONS & CIRCULARS

The **Govt. of India vide Notification No. 40/2015, dated 21st July, 2015** exemption for customs duty on cut and polished diamonds imported by specified agencies.

OUR TAKE: The said notification is self explanatory.

The **Govt. of India vide Notification No. 69/2015, dated 23rd July, 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 notification.

COURT DECISIONS

M/S. HCL LIMITED VERSUS COMMISSIONER OF CUSTOMS, NEW DELHI (SUPREME COURT)

BRIEF: It is difficult to equate Risograph machine with duplicating machine. Duplicating as opposed to photocopying requires the preparation of a master sheet which makes duplicates on a machine, covered under sub-heading 84.43 and not 84.72.

OUR TAKE: The **Hon'ble SUPREME COURT** held that the HSN Explanatory Notes makes it amply clear that small printing machine, even if intended for office use and even duplicators using embossed plastic or metal sheet, which can also operate with stencils, and photocopying etc. are specifically excluded. What follows from the above is that if there is a small printing machine like letterpress, lithographic or offset printing machine, which does the printing work and also, at the same time, performs

duplicating work with stencils or otherwise and even photocopying work, it would still be treated as a printing machine and not duplicating machine.

Simplest form of printing presses consists of a fixed slab (or bed) to hold the forme, cliché or plate to be reproduced. The ingredient of a plate from which there can be reproduction is, thus, recognized as a process of printing. It would also be pertinent to mention that these very HSN Explanatory Notes clarify that apart from the normal types of printing machines, there are special printing machines which are also covered by this heading. Examples of 7 such machines are specifically given. For the purpose of this case, printing machine described at serial No.7 would be pertinent.

A fine distinction between the printing machine on the one hand and duplicating machine on the other has to be borne in mind with specific understanding that in many cases there may be confusion between duplicating machine and specific form of printing machine, namely, screen printing machine. We may point out at this juncture that the endeavor of the appellant is to establish that Risograph machine is nothing but Screen Printing Machine.

Risograph printing process is more akin to screen printing - The printing itself takes place when the ink is squeegeed through the stencil onto the screen and ultimately onto the paper. It is the screen which holds the image area, which can carry either a pictorial or typographic material. Similarly, in the case of a Risograph, the long fiber Japanese type paper is the master through which the ink is pressed to reproduce the image or text. The screen printing stencil prepared is equivalent to the plastic film coating on the cellulose fiber of Risograph master. Thus, the principles adopted for printing in the Risograph is akin to that found in screen printing. - It is difficult to equate Risograph machine with duplicating machine. Duplicating, as opposed to photocopying, requires the preparation of a master sheet which makes duplicates on a machine.

Risograph machine is in the nature of a screen printing machine and not duplicating machine. It would, therefore, be covered under sub-heading 84.43 and not 84.72. [**Decided in favour of assessee**]

M/S SARDA AGRO OILS LTD. & ANOTHER VERSUS UNION OF INDIA & OTHERS (BOMBAY HIGH COURT)

BRIEF: Failure to decide the matter within time directed by the HC. They could be visited with personal costs and consequences such as entering displeasure of this Court in their service record. Proceedings of contempt of court dropped.

OUR TAKE: The **Hon'ble BOMBAY HIGH COURT** held that when there is Court's order and which directs the Authority like the Commissioner of Customs to decide the case within a particular time frame, then, it is his bounden duty to adhere to it. If there are any difficulties in following and abiding by the schedule prescribed in the Court's order, then, appropriate applications have to be made seeking extension of time and the Court must be appraised of all developments and difficulties. It is when the Court extends time, then, the matter can be decided within that extended period, else all such authorities are aware of the consequences of not complying with the Court's order and in time. They could be visited with personal costs and consequences such as entering displeasure of this Court in their service record. Proceedings of contempt of court dropped. [**Appeal disposed of**]

INCOME TAX

NOTIFICATIONS & CIRCULARS

T The **Govt. of India vide Order F. No. 225/141/2015/ITA.II, dated 20th of July, 2015** instruct validation of tax-returns through Electronic Verification Code.

OUR TAKE: The Govt. through this order directs that the taxpayer can validate returns of income within the extended time (i.e. 31.10.2015) through EVC also.

COURT DECISIONS

COMMISSIONER OF INCOME TAX, KOLKATA-I VERSUS THE PEERLESS GENERAL FINANCE & INVESTMENT CO. LTD (CALCUTTA HIGH COURT)

BRIEF: The decision on a question of law on which the judgement is based has been reversed or modified by any subsequent decision of a superior court cannot be a ground

for exercise of power under section 154 of the Income Tax Act.

OUR TAKE: The **Hon'ble CALCUTTA HIGH COURT** held that in any event, the fact that the decision on a question of law on which the judgement is based has been reversed or modified by any subsequent decision of a superior court cannot be a ground for exercise of power under section 154 of the Income Tax Act.

Under Order 47 Rule 1 of the Code of Civil Procedure there is a provision for review. But the power of Court to review contains the following restriction as to the fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

Thus Tribunal was justified in reversing the order passed in exercise of section 154 by the Assessing Officer. [**Decided in favour of assessee**]

CIT VERSUS MAITHON POWER LTD. (DELHI HIGH COURT)

BRIEF: Refund of excise duty claimed from DGFT. That any refund or drawback would go to ultimately reduce the cost of the project and had therefore to be treated as a capital receipt.

OUR TAKE: The **Hon'ble DELHI HIGH COURT** held that the character of the receipt of subsidy in the hands of the Assessee under the scheme had to be determined with respect to the purpose for which the subsidy was granted. If the object of the assistance under the subsidy scheme was to "enable the assessee to set up a new unit or to expand the existing unit then the receipt of the subsidy would be capital account". It was clarified that the form or the mechanism through which the subsidy is given are irrelevant.

This Court concurs with the views expressed by the CIT (A) and the ITAT that any refund or drawback would go to ultimately reduce the cost of the project and had therefore to be treated as a capital receipt. See Challapalli Sugars Ltd. v. CIT [1974 (10) TMI 3 - SUPREME Court] and CIT v. Bokaro Steel Ltd [1998 (12) TMI 4 - SUPREME Court]. [**Decided against revenue**]

RELIANCE INDUSTRIES LTD. VERSUS COMMISSIONER OF INCOME-TAX-MUMBAI (BOMBAY HIGH COURT)

BRIEF: Levy of penalty u/s. 221 confirmed where Tribunal has rendered a finding of fact that the reason set out by the appellant for failure to deposit the tax within time is not a good and sufficient cause.

OUR TAKE: The **Hon'ble BOMBAY HIGH COURT** held that Section 201(1) of the Act itself provides that where there is failure of an assessee to deduct tax and pay to the revenue, such an assessee is deemed to be in default. The failure to deposit in time is accepted/admitted position. There is no dispute about the questions. Thus the appellant is deemed to be in default. Therefore, it cannot be said that the penalty proceedings are without jurisdiction under Section 221 of the Act.

The Parliament has specifically provided for the words "in addition to the amount of arrears alongwith the amount of interest payable be liable for penalty" only with a view of qualifying that payment of the amount of arrears and the interest payable would by itself not wipe away the liability to penalty under Section 221 of the Act. The submission on behalf of the appellant that penalty under Section 221 of the Act would be payable only when the same is in addition to the arrears of payment of tax deducted also stands negatived by the Explanation added to Section 221(1) of the Act. This Explanation clarifies that an assessee shall continue to be liable to penalty even if the tax has been paid before levy of penalty.

The proviso under Section 201 would have no application to the facts of the present case. The legislature did not provide for the words "by or under this Act" in the proviso as in the absence of deducting tax, the occasion to deposit it within time as provided in the Rules would not apply. This is so as the time begins to run from the date of the deducting of tax as is evident also from Section 200 of the Act which provides that any person deducting any sum shall pay it within the prescribed time, the sum so deducted to the Central Government.

It must be borne in mind that the assessee continues to be in default in case the tax has not been deposited with revenue within the time prescribed under the Act. Tax deposited thereafter but before penalty proceedings are initiated would not cleanse the assessee from being in default. The penalty is imposed upon the assessee under Section 221 of the Act for the default in not having paid the tax deducted at source within the time provided under the Act. This default is not wiped away by the assessee depositing the tax after the prescribed time. It is in the above circumstances, that the reliance of the petitioners upon the decision of the Apex Court in Sri Hohan Wahi v. CIT [2001 (3) TMI 4 - SUPREME Court] seems inappropriate. Thus we find no merit in the appellant's above submission that no penalty can be imposed as there was no default at the time when penalty proceedings were initiated.

The retrospective amendment with effect from 1 April 1962

besides being clarificatory would also take into account a partial deposit with revenue of the tax deducted at source within the ambit of Section 201(1) of the Act. The Calcutta High Court's decision in CIT v. S.K. Tekriwal [2012 (12) TMI 873 - CALCUTTA HIGH COURT] being relied upon by the petitioner does not in our view assist the petitioner as it holds that although an assessee would be defaulter for nonpayment of tax deducted at source, yet payments made cannot be disallowed under Section 40(a)(1a) of the Act. This is where partial payment of tax deducted has been made to the revenue.

Tribunal has rendered a finding of fact that the reason set out by the appellant for failure to deposit the tax within time is not a good and sufficient cause. At the hearing, the appellant had not been able to show that the above finding of the Tribunal is in any manner perverse and/or arbitrary. Accordingly, the imposition of penalty cannot be found fault with. Tribunal was right in law in upholding the levy of penalty u/s. 221 of the I.T. Act, 1961, for failure to pay tax deducted at source within the prescribed time. **[Decided against assessee]**

STATE TAXES

ALL INDIA VAT

ASSAM

The **Government of Assam vide Circular No. 9/2015 (No. CT/COMP-69/2015/2), dated 20.07.2015** issued instruction in matter relating to monthly/quarterly return for April-June quarter 2015.

OUR TAKE: The Govt. through this Circular allowed filing of particulars under Part-G to Part-N of Form-13 for the April-June 2015 manually. However, dealers will compulsorily file online Tax Return in respect to Part-A to Part-F and particulars under Part-G to Part-N may be filed manually for the quarter ending June/2015. From July/2015 onwards dealers have to compulsorily file Part-G to Part-N of the Tax Return on line.

DELHI

The **Govt. of Delhi vide Circular No. 15 of 2015-16 dated, 21-7-2015** do hereby extend the last date for filing of online return for the 1st quarter of the year 2015- 16 in Forms EC-II and EC-III as notified vide Notification No. 3(515)/Policy/VAT/2015/330-341 dated 26/06/2015 to 30/09/2015.

GOA

The **Govt. of Goa vide Order No. CCT/12-2/11-12/1762, dated 21st July, 2015** extend the period for filing of returns for the first quarter of 2015-16 upto 28th August, 2015.

OUR TAKE: All the assesses registered under the Goa Value Added Tax Act, 2005 (Act 9 of 2005) other than composition dealers are accordingly required to file their quarterly returns for the quarter ending 30-06-2015 on or before 28th August, 2015; failure to file returns within the extended time shall attract penalties as provided in Section 55 of the said Act.

PUNJAB

The **Government of Punjab on 23-July-2015 issued a Public Notice stating certain facts regarding GST.**

OUR TAKE: The Public Notice speaks about a unique GSTIN which will be given to every dealer that will be linked with the Permanent Account Number (PAN in income tax) of the dealer. In light of this, Government of India has asked all the States to request their dealers to provide information regarding their PANs. For this a pop will appear in the login of dealer where they are requested to submit their PAN details.

Those dealers whose Tax Identification Number (TIN in VAT regime) is already linked with the valid PAN are likely to be issued a GSTIN with bare minimum additional formalities.

TRIPURA

The **Government of Tripura vide Memorandum No.F1-6(30)-Tax-2004/9251-75, dated 20.07.2015** fixed the amount of Security deposit required for different classes of re-sellers / importers / manufacturers and transporters.

OUR TAKE: Readers are requested to go through the Memorandum for the detail of amount.

UTTAR PRADESH

The **Govt. of Uttar Pradesh vide Notification No. K.A. NI-2-1041/XI-9(1)2008, U.P. Act-5-2008-Order-(136)-2015, dated 22nd July, 2015** amend Schedule -IV to the said Act.

OUR TAKE: In the said Schedule-IV, for entries at serial number 3 and 4(c), the following entries respectively shall, column wise be substituted, namely:

OUR TAKE: Rate of tax of Petroleum products are changed. Readers are requested to go through the notification.

WEST BENGAL

The **Govt. of West Bengal vide Trade Circular No. 14/2015 dated 24th July, 2015** issued a circular regarding Large Taxpayer Unit.

OUR TAKE: The Circular is self explanatory. It contains the concepts, facilities, eligibility, etc regarding Large Taxpayer Unit.

OTHER UPDATES

ALLIED LAWS

COURT DECISIONS

M/S SHREENATH CORP. & ORS VERSUS CONSUMER EDUCATION & RESEARCH SOCIETY & ORS. (SUPREME COURT)

BRIEF: Complaint u/s 17(1) of Consumer Protection Act 1986 regarding waiver of pre deposit. If the National Commission after hearing the appeal of the parties in its discretion wants to stay the amount awarded it is open to the National Commission to pass an appropriate interim order including conditional order of stay.

OUR TAKE: The **Hon'ble SUPREME COURT** held that the second proviso to Section 19 of the Act mandates pre-deposit for consideration of an appeal before the National Commission. It requires 50% of the amount in terms of an order of the State Commission or Rs 35,000/- whichever is less for entertainment of an appeal by the National Commission. Unless the appellant has deposited the pre-deposit amount, the appeal cannot be entertained by the National Commission. A pre-deposit condition to deposit 50% of the amount in terms of the order of the State Commission or Rs 35,000/- being condition precedent for entertaining appeal, it has no nexus with the order of stay, and as such an order may or may not be passed by the National Commission. Condition of pre-deposit is there to avoid frivolous appeals. If the National Commission after hearing the appeal of the parties in its discretion wants to stay the amount awarded, it is open to the National Commission to pass an appropriate interim order including conditional order of stay. Entertainment of an appeal and stay of proceeding pursuant to order impugned in the appeal stands at different footings, at two different stages. One (pre-deposit) has no nexus with merit of the appeal and the other (grant of stay) depends on prima facie case; balance of convenience and irreparable loss of party seeking such stay. Interference is not called for. [**Decided against appellant**]

COMPANY LAW

The **Govt. of India vide Circular No. 11/2015 (No. 1 / 19/2013-CL-V), dated 21st July, 2015** issued clarification with regard to circulation and filing of financial statement under relevant provisions of the Companies Act, 2013.

OUR TAKE: The Circular is self explanatory.

FOREIGN TRADE POLICY

The **Govt. of India vide Notification No. 15/2015-2020, dated 21st July, 2015** amends the import policy of Controlled Substances under the NDPS Act, 1985.

OUR TAKE: The conditions in Chapter 28 and 29 of ITC (HS), 2012 – Schedule – 1 (Import Policy), of the import policy of Controlled Substances under the NDPS Act, 1985 is amended through this notification. Readers may go through the said notification for ITC (HS) code wise details.

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