



ASC Times

All India Taxes Weekly Referencer

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Solving any tax puzzle

Tax saving advice across all the taxes



From the CEO's Desk



Dear Reader,

Finally, after a year of governance and amid speculation about Mr. Modi's success as prime minister, some fresh air came on 25th June in the form of an announcement by Mr. Modi to launch 3 mega projects rather missions for urban development and a world class future, nothing less than Singapore, for our youth. The projects are namely, Atal Mission for Rejuvenation and Urban Transformation (AMRUT), Housing for All by 2022, and 100 Smart Cities Mission. An initial investment of nearly Rs. 1 Lakh is what planned for the missions. These missions are unprecedented in its nature as after the World War II, when US launched the Marshall Plan for the economic recovery of Europe and Germany, nothing of this type ever announced. The ambitions are high and stakes are big but if successful, which is most likely, India definitely has a bright future for its habitants.

Though Mr. Rajan, RBI Governor suspect great depression in the coming years, but group of experts say that the announcement by PM will give boost to Indian Economy. It will not only create jobs in the infrastructure but also attract foreign investment in the sector. "Besides improving the economic climate and the GDP, it would attract the investment from overseas. It would also create job opportunities and would also mobilize big corporate and industrialist," says D K Aggarwal, CMD, SMC Investments and Advisors Ltd. "In addition, it could also deliver indirect benefit to other sectors such as Auto & Auto Ancillary, Real Estate & Housing, Consumer & FMCG, etc." he adds.

In a scenario where India already leads FDI flow in the South Asia continent, accounting for \$34 billions during 2014, it further validates the fact that India is uprising and trend will likely to continue this year and years ahead also.

On the other hand, a report by UNCTAD, a UN think-tank, says that developing countries are losing around \$100 billion a year in revenues because foreign investors are channeling profits through offshore zones to avoid tax. "Tax avoidance practices therefore are responsible for a significant leakage of development finance and resources," UNCTAD Secretary-General MukhisaKituyi told a news conference. The reason behind it could be the tax havens offered by some countries. But some international action is needed to stop countries using tax as a lever to attract investors and hence able to stop money drain from the country where it is been generated.

Alok Kumar Agarwal

CEO

ASC Group

TAX CALENDER

Due Date	Description	Law
29 th June	Annual Return for small dealers	Rajasthan VAT
30 th June	Deposit of tax monthly (tax liability more than or equal to Rs. 1 lakh)	Goa VAT
30 th June	Filing of Annual Return Year 2014-15 [By the dealers who are not liable to VAT Audit]	Gujarat VAT
30 th June	<ol style="list-style-type: none"> Monthly deposit of Tax by cheque or DD Monthly deposit of tax by cash or RTGS Monthly return 	Himachal Pradesh VAT
30 th June	Annual Return filling/permission for filling	Madhya Pradesh VAT
30 th June	<ol style="list-style-type: none"> Submission of WCT TDS Annual Return Quarterly return January to March (For dealers not liable to file F-704) Six Monthly return October to March (For dealers not liable to file F-704) E ANNEXURE (With the last Return of the Financial Year) 	Maharashtra VAT
30 th June	Deposit of tax	Mizoram VAT
30 th June	Application for option for composition scheme	Orissa VAT
30 th June	<ol style="list-style-type: none"> Monthly deposit of tax Monthly return 	Punjab & Chandigarh VAT & Tripura VAT
5 th July	Deposit of TDS	Kerala VAT
5 th July	Deposit of tax	Rajasthan VAT
5 th July	Issuance of TDS Certificate for the TDS deducted in May	Tamil Nadu VAT

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
30th June	Remna Ni	Mizoram
5th July	Guru Hargobind Ji's Birthday	Jammu & Kashmir

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CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

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

BRIEF: Whether Levy of Penalty u/s 76 mandatory or any discretion is left with the authorities for imposing such penalty when no reason why the Authorities should depart from imposing such penalty as mandated by the provisions of the Act.

OUR TAKE: The Hon'ble MADRAS HIGH COURT held that this is a case of deliberate suppression of facts with a willful intention to evade payment of Service Tax and the evasion would not have come to light but for the investigation conducted by the Officers. On a revision, the Commissioner (Appeals) initiated penalty proceedings and imposed penalty. The said order was confirmed by the Tribunal following the decision of the Supreme Court in the case of Union of India Vs. Dharmendra Textile Processors reported in [2008 (9) TMI 52 - SUPREME COURT], which cannot be faulted with. When there is a deliberate suppression, the provision mandates imposition of penalty. Hence, we find no reason why the Authorities should depart from imposing such penalty as mandated by the provisions of the Act. Decision in the case of Dhandayuthapani Canteen - Vs - Customs, Excise and Service Tax Appellate Tribunal [2015 (1) TMI 812 - MADRAS HIGH COURT] followed. [**Decided against assessee**]

GOPALA BUILDERS VERSUS DIRECTORATE GENERAL OF CENTRAL EXCISE INTELLIGENCE AND 1 (GUJARAT HIGH COURT)

BRIEF: Whether Recovery of service tax before adjudication of upon the matter and fixed the quantum of service tax where the recovery which is being made smacks with arbitrariness be recovery stayed.

OUR TAKE: The Hon'ble GUJARAT HIGH COURT held that it cannot be disputed that even before adjudication, the respondents could recover the amount. But on the assumed

basis, the recovery which is being made that smacks with arbitrariness.

Decision in the case of Technomaint Contractors Limited v. Union of India, reported in [2014 (4) TMI 882 - GUJARAT HIGH COURT] followed the petitioner is entitled for interim order. Recovery proceedings stayed. [**Decided in favour of assessee**]

THE NARASIMHA MILLS PRIVATE LTD. VERSUS THE COMMISSIONER OF CENTRAL EXCISE (APPEALS), THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE (MADRAS HIGH COURT)

BRIEF: Whether rejection of declaration under VCES 2013 by the Commissioner of Central Excise (Appeals) directed to take up the appeal preferred by the petitioner and dispose of the same in accordance with law.

OUR TAKE: The Hon'ble MADRAS HIGH COURT held that in similar circumstances, the Punjab and Haryana High Court, in its decision in M/s. Barnala Builders s case [2013 (12) TMI 568 - PUNJAB AND HARYANA HIGH COURT] , has categorically held that the order passed under VCES is appealable. We are unable to accept correctness of instructions issued by the Central Board of Excise and Customs, for the simple reason that after incorporation of the Service Tax Voluntary Compliance Encouragement Scheme into the Finance Act, all other provisions of the Act except to the extent specifically excluded, apply to proceedings under the scheme. The impugned order passed by the Deputy Commissioner of Central Excise and Service Tax would necessarily be appealable under Section 86 of the Indian Finance Act, 1994.

Adjudicating authority vs. Designated authority, It is pertinent to note that though the second respondent has been described as a designated authority, however, a perusal of the order, dated 15.11.2013 passed by him clearly shows that he has dealt with the issue on merits regarding the eligibility of the assessee/petitioner to avail the VCES scheme and passed a detailed order, dated 15.11.2013 holding that since the petitioner had been issued with show cause notice dated 8.2.2012 demanding service tax of Rs. 21,44,299/- for the period from 1.4.2007 to 31.3.2011, which was confirmed vide original order, dated 28.3.2013 and as such in terms of Section 106(2) of the Act, 1994 and in view of Circular Nos.169 and 170, dated 13.5.2013 and 8.8.2013, the petitioner is not entitled to

avail the said scheme. Therefore, when the authority, the second respondent herein has given such a categorical finding on going through the facts and circumstances of the case by applying his mind, his decision, in my considered opinion, would fall within the meaning of adjudication which is meant by settled law that giving or pronouncing a decision or order judicially and thereby, I have no hesitation to hold that the second respondent has acted as an adjudicating authority and not as a designated authority.

The remedy of appeal is a creation of a statute. In fact, making a provision of appeal in the statute is to give a hope of success to the aggrieved party who has been affected by the adverse order of the decision maker, who, while passing such order, might have misapplied the law, came to an incorrect factual finding, acted in excess of his jurisdiction, abused his powers, was biased, considered evidence which he should not have considered, or failed to consider evidence that he should have considered. To err is human and hence it cannot be expected that all the decision makers would be perfect in their approach in arriving at just conclusions. If any statute or scheme does not make the appeal provision, it would be nothing to mean that the order passed by the authority has become final and conclusive for all the purposes and thereby, giving uncontrolled and unquestionable powers to the said authority by virtue of which, he becomes as monopoly over the statute and will certainly act in an arrogant manner.

Commissioner of Central Excise (Appeals) directed to take up the appeal preferred by the petitioner and dispose of the same in accordance with law. [**Decided in favour of assessee**]

CENTRAL EXCISE

COURT DECISIONS

COMMISSIONER OF CENTRAL EXCISE, VAPI VERSUS SYNFB SALES (SUPREME COURT)

BRIEF: Whether the sale of PTY Twisted Yarn is factory gate sale or not where the allegation of the Revenue against the assessee is that the broker used to sell it to a third party at a higher price is factually incorrect.

OUR TAKE: The Hon'ble SUPREME COURT held that on a perusal of the order passed by the Commissioner and that of the Tribunal, it is luminescent that the assessee used to sell the PTY Twisted Yarn, the manufactured item to number of buyers as has been found by the Department. Some buyers were taking directly and some sales were made through the brokers. However, the invoices used to be raised in the name of certain buyers. This practice was prevalent since long even when the Excise

was not leviable. That apart, it is noticeable that there is no finding that the price that was collected in respect of the item, whatever grade or size may be, from the genuine buyers or the broker, were different and moreover, the duty has been paid at the gate at the same rate at the time of transit on the same quantum.

The allegation of the Revenue against the assessee is that the broker used to sell it to a third party at a higher price. It is also reflected that the adjudicating authority has placed reliance on the approximate stock value statement which was given to the bank to arrive at the conclusion that the assessee had undervalued the sale. The Tribunal, by adequate reasoning has repelled the said analysis made by the Commissioner and disposed it off. It has rightly done so. In the absence of any material on record, we are impelled to think that the factual analysis made by the Tribunal cannot be found fault with. [**Decided against the revenue**]

COMMISSIONER OF C. EX., MUMBAI-I VERSUS DEV ASHISH (BOMBAY HIGH COURT)

BRIEF: Whether the provisions of Section 11AB inserted w.e.f. 28th September 1996 are in the nature of penal interest and would apply only to those cases where clearances were affected after 28th September 1996 irrespective of the date of passing of the adjudication order.

OUR TAKE: The Hon'ble BOMBAY HIGH COURT held that court has not admitted the Appeal on the question of law now raised by the Revenue. However, the Appeal has been admitted on the substantial question of law formulated on 20th October, 2005. The order was passed after noting the contentions of the Revenue and perusing the memo of Appeal. In these circumstances, by clarifying that the above noted question raised during the course of arguments can be examined in an appropriate case that we refuse to interfere with the order under challenge on this ground. The question of law that we have framed as substantial question of law has already been answered in series of decisions against the Revenue. The Tribunal has rightly placed reliance upon the language of Section 11AB. It has also placed reliance upon coordinate Bench decision in the case of Marcandy Prasad (1998 (3) TMI 316 - CEGAT, CALCUTTA). The Revenue has accepted the fact that the provision and as interpreted in the case of M/s. M.P. Tapes v. Commissioner of Central Excise lays down the correct law. The provisions of Section 11AB, inserted w.e.f. 28th September, 1996 are in the nature of penal interest and would apply only to those cases where clearances were affected after 28th September, 1996, irrespective of the date of passing of the adjudication order. The above position is emanating from the arguments the Revenue and it binds it. In these circumstances, the question of law termed as substantial question of law by the

Revenue and formulated by this Court cannot be answered in favour of the Revenue. **[Decided against Revenue]**

CUSTOMS

COURT DECISIONS

Commissioner of Customs, Kolkata Versus M/s. Diascans (India) Ltd. (SUPREME COURT)

BRIEF: No reason whatsoever was given for reducing the penalty from Rs. 20 lakhs to Rs. 1 lakh except observing that it appears to be excessive. The breach has been committed by the respondent. More serious breach is the violation of undertaking given to this Court. Penalty not to reduce.

OUR TAKE: The Humble SUPREME COURT held that in so far as the payment of duty at the reduced value is concerned, Mr. A.K.Sanghi, learned senior counsel may have something to say, but we find that in the order dated 3.11.2003 passed in this appeal, notice was issued limited to the question of reduction of penalty. Therefore, we refrain from going into the issue raised in the appeal and would confine ourselves only to the reduction of the penalty. No reason whatsoever is given for reducing the penalty from Rs. 20 lakhs to Rs. 1 lakh except observing that it "appears to be excessive". We have already taken note of the circumstances under which the breach has been committed by the respondent. More serious breach is the violation of undertaking given to this Court. It was not a fit case where penalty should have been reduced. Since the respondent is now to pay the duty at the depreciated value of the machinery, we set aside the order of the CEGAT in so far as reduction of penalty from Rs. 20 lakhs to Rs. 1 lakh is concerned. **[Decided in favour of Revenue]**

UNION OF INDIA & OTHERS VERSUS M/S PARAM INDUSTRIES LTD. & OTHERS (SUPREME COURT)

BRIEF: When notification may have been published on the date when the goods were cleared but it was not offered for sale by the concerned Board can differential duty be demanded on the basis of such notification?

OUR TAKE: The Humble SUPREME COURT held that for bringing the notification into force and to make it effective, two conditions are mandatory, viz., (1) Notification should be duly published in the official gazette, (2) it should be offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi. In the present case, admittedly, second condition was not satisfied inasmuch as it was offered for sale only on 06.08.2001, as it was published on 03.08.2001 in late evening hours and 04/05.08.2001 were holidays. Though the notification may

have been published on the date when the goods were cleared, it was not offered for sale by the concerned Board, which event took place much thereafter. Therefore, it was not justified and lawful on the part of the Department to claim the differential amount of duty on the basis of said notification. Decision in the case of Harla v. The State of Rajasthan' [1951 (9) TMI 37 - SUPREME COURT] followed. **[Decided against Revenue]**

Secretary (Revenue) Government of India And Another Versus Dyestuffs Manufacturers Association of India And Others, M/s Hindustan Organic Chemicals Ltd And Others Versus Secretary (Revenue) Government of India And Others (SUPREME COURT)

BRIEF: On Levy of anti dumping duty, noticee did not cooperate in the inquiry or furnishes the requisite material. While carrying out the best judgment assessment it is necessary for the Designated Authority to base its decision on the relevant considerations/ material.

OUR TAKE: The hon'ble SUPREME COURT held that it is a case where the Designated Authority applied the provisions of Rule 6(8) of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as 'Rules') and determined the anti-dumping duty on the basis of "best judgment assessment". There is no dispute that in those cases where the noticee does not cooperate in the inquiry or furnishes the requisite material, it is open to the Designated Authority to invoke Rule 6(8) and determine the normal value of the product on the basis of "best judgment assessment". This is so held in the case of Designated Authority v. Haldor Topsoe [2000 (7) TMI 77 - SUPREME COURT OF INDIA]. However, while carrying out the "best judgment assessment", it is necessary for the Designated Authority to base its decision on the relevant considerations/ material.

Customs, Excise and Gold (Control) Appellate Tribunal has found many loopholes in the exercise carried out by the Designated Authority which prompted the CEGAT not to accept the valuation of goods arrived at by the orders of the Designated Authority - there is no merit in this appeal as we are in agreement with the aforesaid analysis by the CEGAT in the impugned order. **{Decided against revenue}**

INCOME TAX

NOTIFICATIONS & CIRCULARS

The Govt. vide **Circular F. No. 279/Misc 53/2003-ITJ dated 19-6-2015** instructed to ensure strict compliance of Instruction No.20, dated 23.12.2003 which is regarding issue of appellate order by CIT (Appeals) within 15 days of the last hearing.

OUR TAKE: The Circular is self explanatory.

The Govt. vide **Notification No. 49/2015 dated 22-6-2015** seeks to amend Rule 12 through making changes in sub rule (1) and (4). And ITR Forms to be filed for the AY 2015-16.

OUR TAKE: The Govt. has made certain amendments in Rule 12 and in Appendix-II, for "Forms SAHAJ (ITR-1), ITR-2 and SUGAM (ITR-4S)" the "Forms SAHAJ (ITR-1), ITR-2, ITR-2A and SUGAM (ITR-4S)" is substituted.

COURT DECISIONS

COMMISSIONER OF INCOME TAX, CENTRAL-I VERSUS M/S HINDUSTAN ALUMINUM CORPORATION LTD. (BOMBAY HIGH COURT)

BRIEF: Whether the extra shift allowance has to be calculated on the basis of number of days in which the factory had worked for extra shift or on the basis of individual plant/machinery working an extra shift.

OUR TAKE: The hon'ble **BOMBAY HIGH COURT** held that both the CIT (Appeals) as well as the Tribunal have reached a concurrent finding of fact that the reduction plant is an integral part of the factory of the respondent. This concurrent finding of fact by Commissioner of Income Tax (Appeals) and the Tribunal is not shown to be in any manner perverse.

This issue stands concluded in favour of the assessee by the decision of the Supreme Court in South India Viscose Ltd. Vs. CIT reported in [1997 (7) TMI 9 - SUPREME Court] wherein the Supreme Court had occasion to consider the effect of the circular dated 28 September 1970 which is in fact reiterated in the subsequent circular dated 26 May 1985. The Apex Court has observed that extra shift allowance has

to be calculated on the basis of number of days which the factory had actually worked on extra shift and the extra shift allowance has not to be calculated qua a machinery or plant in the factory. Thus as held by the Supreme Court the extra shift allowance has to be calculated on the basis of number of days in which the factory had worked for extra shift and not on the basis of individual plant/machinery working an extra shift. [**Decided in favour of assessee**]

COMMISSIONER OF INCOME TAX-7 VERSUS M/S NICHOLAS PIRAMAL (INDIA) LTD. (BOMBAY HIGH COURT)

BRIEF: Where business is not static and over a period of time it would include within its fold the care and concern for the society at large which would result in a goodwill being created in its favour leading to better business whether community development expenditure be allowed.

OUR TAKE: The hon'ble **BOMBAY HIGH COURT** held that tribunal while following the decision of the Madras High Court in Commissioner of Income Tax v/s. Madras Refineries Ltd., [2003 (11) TMI 47 - MADRAS High Court] held that the concept of business is not static and over a period of time, it would include within its fold the care and concern for the society at large which would result in a goodwill being created in its favour leading to better business. The Madras High Court in Madras Refineries (supra) had allowed expenditure incurred on drinking water facilities and aid to the school. Therefore, in the present case also, expenditure incurred for community is for the purpose of business. This is in effect, a finding of fact and the Revenue is unable to show, it is perverse. Thus, no fault can be found with the order of the Tribunal. [**Decided against revenue**]

BHUPINDER SINGH CHAUHAN VERSUS COMMISSIONER OF INCOME TAX, KARNAL (PUNJAB & HARYANA HIGH COURT)

BRIEF: While computation of capital income where Tribunal having held the appellant's agricultural income to be Rs. 9 lacs as against the claim of Rs. 12 lacs. Computation of the income at Rs. 9 lacs as against the claim of Rs. 12 lacs cannot be held to be perverse or absurd.

OUR TAKE: The hon'ble **PUNJAB & HARYANA HIGH COURT** held that the Tribunal has considered in detail the evidence. The Tribunal for instance considered the income of the Assessee even during the previous years which was substantial. The Tribunal therefore, came to the conclusion that the assessee had been engaged in agricultural activity. The main dispute related to the agricultural activities. In this regard, the Authorities have considered the sales of various items such as wood, wheat, haldi etc. The extent of the lands cultivated was, however, in doubt. Initially the appellant claimed that about 25 acres was taken on lease. The document, however, did not establish the same. Further as

noted by the Tribunal also no books of accounts/bills/vouchers have been produced. This was also a relevant factor while testing the appellant's claim.

Having considered all these facts, computation of the income at Rs. 9 lacs as against the claim of Rs. 12 lacs cannot be held to be perverse or absurd. This was a question of appreciation of facts. [**Decided against revenue**]

STATE TAXES

ALL INDIA VAT

Andhra Pradesh

The **GOVERNMENT OF ANDHRA PRADESH** vide **Circular – 4 (Ref.No. CCW/CS(1)/128/2015), Hyderabad, dated 22.06.2015** issued instructions regarding VAT Registrations, Inspections (Advisory visits) under GOI Action Points on ease of Doing Business.

OUR TAKE: As part of Registration inspection process, The Inspection Authorities has to confirm the address proof already submitted at the time of filing of Registration documents. It is instructed that there is no need to submit additional documents at the time of Registration Inspection.

Assam

The **Government Of Assam** vide **Circular No. 7/15 (CTS-81/2007/397), dated 24.06.2015** issued instruction regarding Production of Tax Clearance Certificate" or "Dispatch Note" at Check Posts for dispatch of taxable goods and demand of additional security.

OUR TAKE: The Circular is self explanatory.

Delhi

The speech of Shri Manish Sisodia (Dy. Chief Minister) on Budget 2015-2016 released on 25th June, 2015.

Himachal Pradesh

The **Government Of Himachal Pradesh** vide **Notification No. EXN-F(18)-2/2001 dated 22.06.2015** seek to amend Schedule-I appended to the Act.

OUR TAKE: In Schedule-1 appended to the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1999, in item No.22, for the words, signs and figures "Rs. 7.50 per 10 litres or part thereof", the words, figures and signs "Rs. 2.00 per 10 litres" is substituted.

The **Government of Himachal Pradesh** vide **Notification No. EXN-F(10)-20/2014 dated 24.06.2015** seek to amend SCHEDULE-'A' and SCHEDULE-'B' appended to the Himachal Pradesh Value Added Tax Act, 2005.

OUR TAKE:

PROPOSED AMENDMENTS IN SCHEDULE 'A'

In SCHEDULE 'A', in Part-II- 'A', after item No.37 and 66, the following items 37-A and 66-A shall respectively be inserted, namely:-

- 37-A Fabrication of body of trucks and buses
- 66-A LED bulbs

PROPOSED AMENDMENTS IN SCHEDULE 'B'

After item No.18, the following item shall be inserted, namely:-

18-A, Energy Efficient Chullahs certified by the Energy & Resources Institute (TERI) or approved by the Ministry of New & Renewable Energy(MNRE).

Orissa

The **Government Of Orissa** vide **Notification (17764-FIN-CT1-TAX-0055-2012) dated 23.06.2015**, exempt the sale of Aviation Turbine Fuel (ATF) to international flights, from payment of tax payable under the said Act subject to the condition that the international airlines shall give a certificate to the selling dealer (Oil Company) of Aviation Turbine Fuel (ATF) in the State in the prescribed proforma about the detail purchase of Aviation Turbine Fuel (ATF).

OUR TAKE: The notification contains the aforementioned proforma.

Rajasthan

The **Government of Rajasthan** vide **Circular No. 02/2015-16 (F.16 (95) tax / cct/14-15/5937), dated 23.06.2015** issued

instruction in regard to Application for early-refund in form vat 20A.

OUR TAKE: The Circular is self explanatory.

The **Government of Rajasthan vide Circular No. 05/2015-16 (F.16 (97) Tax / CCT/14-15/5921), dated 23.06.2015** issued instruction regarding audit under section 27 where cases have been assigned to an Auditor posted at headquarter or State Tax Academy of Rajasthan (STAR).

OUR TAKE: The Circular is a clarification and is self explanatory.

The **Government of Rajasthan vide Circular No. 04/2015-16 (F.16 (97) Tax / CCT/14-15/5912), dated 23.06.2015** issued circular regarding maintenance of assessment records.

OUR TAKE: Through this instruction all the assessing authorities are directed not to maintain the physical records of assessment of the dealers for the year 2013-14 onwards, where no Declaration Forms / Certificates are required to be submitted by the dealer in support of any concessional rate of tax and the dealer is assessed under Section 23 of the Act with nil demand.

The **Government of Rajasthan vide Circular No. 02/2015-16 (F.16 (97) Tax / CCT/14-15/5895), dated 23.06.2015** issued circular regarding cancellation of registration of the dealers who have failed to file their returns.

OUR TAKE: In order to provide an opportunity of being heard, show cause notices shall be issued to such dealers to file their returns up to 30.07.2015 and the same shall be served in the manner as provided under the Rule 50 of the RVAT Rules, 2006. In case the dealer fails to file the required returns within the stipulated time, cancellation proceedings of registration shall be initiated by the Assessing Authority or the Authority competent to grant registration. To ensure wide publicity, such list would also be published in the leading newspapers of the State.

The **Government of Rajasthan vide Circular No. 03/2015-16 (F.16 (95) Tax / CCT/14-15/5958), dated 23.06.2015** issued circular regarding android based mobile application for Form VAT-47A and VAT-49A.

OUR TAKE: An android based mobile application 'Raj VAT' for generating Form VAT- 47A and Form VAT-49A of Commercial Taxes Department is now available at Google Play Store.

COURT DECISIONS

ASSAM TRADING COMPANY VERSUS STATE OF ASSAM AND OTHERS (GAUHATI HIGH COURT)

BRIEF: Petitioner has with a dishonest intention filed false return to cause loss to the state revenue. If so it amounts to commission of offence punishable under section 415 read with section 417 of the Indian Penal Code.

OUR TAKE: T hon'ble GAUHATI HIGH COURT held that quantity of goods shown in form 65A was found to be higher than the one shown in the return, which was assessed in the year 2007. Subsequent material, a declaration furnished by the petitioner itself under the statutory form 65A, discloses that the quantity and value of the goods were more than what were furnished in the return. Therefore there does not appear to be any reason to hold that the reassessment order is not based on the valid material which is found subsequent to the assessment. That apart the order is an appealable order. The petitioner has taken a shortcut method to file the writ petition bypassing the provisions of appeal and other remedies before invoking the writ jurisdiction under Article 227 of the Constitution of India. A false return has been filed on the basis of the contents of statutory form 65A which the department found subsequent to the assessment from the check-post in West Bengal. This clearly shows that the petitioner has with a dishonest intention filed false return to cause loss to the state revenue. If so, it amounts to commission of offence punishable under section 415, read with section 417 of the Indian Penal Code. [Decided against assessee]

OTHER UPDATES

NOTIFICATIONS & CIRCULARS

DGFT

The Govt. vide **Notification No. 12 /2015-2020, dated the 24th June, 2015** extend prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China till 23-6-2016.

OUR TAKE: The notification is self explanatory.

DGFT vide **public notice no. 22/2015-2020-New Delhi Dated: 23.06. 2015** notified a SION, bearing number J-376 in respect of the export product '**Golf Gloves made of Knitted/Crocheted/Woven/Non-woven fabrics**' under **Textiles Product Group**.

OUR TAKE: Before this there was no SION for this export product. The notification is self explanatory.

The DGFT vide **Public Notice No. 21/2015-20 - New Delhi, dated 23rd June 2015** issued new format of Bank Guarantee, to be executed with DGFT, for recognition as Pre-Shipment Inspection Agency (PSIA).

OUR TAKE: The new format is available in the notification.

The Govt. vide **Notification No. 12 /2015-2020, dated the 24th June, 2015** extend prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations

with milk or milk solids as an ingredient) from China till 23-6-2016.

OUR TAKE: The notification is self explanatory.

The **Govt. vide Circular No. RBI/2014-15/649, dated 25-6-2015** granted permission to AD Category -I banks to borrow from international / multilateral financial institutions without approaching RBI for case by case approval subject to specified conditions.

OUR TAKE: AD Category - I banks may borrow funds from their Head Office or overseas branches or correspondents outside India or any other entity as permitted by Reserve Bank, up to a limit of hundred per cent of their unimpaired Tier I capital as at the close of the previous quarter or USD 10 million (or its equivalent), whichever is higher, subject to such conditions as the Reserve Bank may direct. The notification is self explanatory.

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