

From the CEO's Desk



Dear Reader,

A lot of reforms are happening simultaneously in the country as far as the policy making is concerned. Before GST could be implemented TAX authorities are considering reforms and taking good care of tax-payers. One such body is Tax Administration Reform Commission (TARC), headed by economist Parthasarathi Shome, which has recommended several taxpayer services and grievance redressal issues to be resolved on priority and chairperson of Central Board of Direct Taxes Ms. Anita Kapur said that CBDT is examining all the recommendations provided by TARC. "We are very committed to see that the tax administration gets reformed. Whatever the recommendations have been made by the TARC, we are examining them. We are trying to issue a notification soon that at least for taxpayer services, we will have an independent vertical which has been one of the major recommendations (of the TARC) so that taxpayer services and grievances get focused attention at every level," Kapur told PTI.

Another recommendation made by Madras High Court while hearing a PIL filed by advocate R Lakshmanan, a bench of the court comprising justices R Sudhakar and V M Velumani directed that it is unfair to impose service tax on parents who choose to hire private coaching classes because of the quality education which is not provided by states and Centre Government. The bench also said that service tax on insurance is also not justified as a person buys insurance for emergency and the benefits are for the family and dependents only. "The government must provide excellent coaching as it was done in countries such as the United States and United Kingdom or at least give service tax exemption by listing coaching institutes under the negative list of services as per Section 66D of the Finance Act, 1994," the bench recommended.

Also keeping the oneness of the states, Government today extended the deadline for e-filing of income returns and audit reports for a special category of taxpayers, assessed under section 44AB of the Income Tax Act, by a month to October 31. "In order to avoid discrimination between taxpayers residing in different jurisdictions and to be fair to all and also in view of paucity of time to approach Supreme Court by way of Special Leave Petition, government has decided that across the country all returns of income and audit reports under section 44AB which were due for e-filing by September 30, 2015, may now be filed by October 31, 2015," the CBDT said at time of extending the date.

Alok Kumar Agarwal
 CEO
 ASC Group

TAX CALENDER

Due Date	Description	Law
5 October	Deposit of Tax	Rajasthan VAT, Tamil Nadu VAT
	Deposit of TDS	Kerala VAT
	Issue of TDS Certificate	Tamil Nadu VAT
6 October	Deposit of Tax	Central Excise Law
	Deposit of Tax	Service Tax Law
7 October	Deposit of Tax	Tripura VAT
	Deposit of TDS	Orissa VAT
	Filing of Return	Jammu & Kashmir VAT
	Issue of TDS Certificate	Orissa VAT
	Deposit of TDS	Income Tax Law
9 October	Filing of Return	Gujarat VAT
10 October	Deposit of Tax	Kerala VAT
	Deposit of TDS	Chhattisgarh VAT, Madhya Pradesh VAT, Mizoram VAT, Nagaland VAT
	Filing of Return	Kerala VAT, Karnataka VAT
	Filing of Return	Central Excise Law

COUNTRY WIDE HOLIDAYS FOR THE WEEK

Date	Occasion/Festival	Region
9 October	Birthday of S. Bhagat Singh Ji	Punjab

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CENTRAL TAXES

SERVICE TAX

COURT DECISIONS

MUMBAI INTERNATIONAL AIRPORT PRIVATE LIMITED AND C.J. LEASING (CAYMAN) LTD. AND ANR. VERSUS COMMISSIONER OF SERVICE TAX AND ORS. (BOMBAY HIGH COURT)

BRIEF: Sale and disposal of detained aircraft. Detention of Aircrafts and Helicopters belonging to M/s. Kingfisher Airlines to recover Service Tax amount due to the Government. Sale proceeds from the sale of aircraft shall not be disbursed and released but should be brought in this Court.

OUR TAKE: The hon'ble BOMBAY HIGH COURT held that the said third Respondent would render all assistance in that behalf. However, Mr. Khambata for the appellants seeks leave of this Court to have access to the documents and records in relation to the subject aircraft once the Service Tax Commissioner takes custody and possession of the same. Mr. Khambata submits that this is in order to enable and facilitate the valuation being privately done by the third Respondent and the reports being handed over to the Commissioner which would assist him to determine the upset price.

Sale proceeds from the sale of aircraft shall not be disbursed and released but should be brought in this Court.

We grant leave to the third Respondent and the learned Counsel appearing for the same to raise this issue once we have the affidavit of the airlines before us.

OUR TAKE: The hon'ble SUPREME COURT held that the Commissioner has himself noted that no chemical name of the stabilizer is used and the role played by the aforesaid ingredients of the stabilizer is to maintain a uniform emulsion of oil in water, throughout the shelf life and to improve the body and texture and to impart smoothness to the products. Thus, as far as the basic product is concerned, it demonstrates the same and the purpose is only to impart smoothness to the product and to maintain the product consistency during storage and transportation and throughout its shelf life. Main purpose is to maintain the product consistency during storage and transportation as well as to improve the shelf life. Merely because it improves the body and texture of the product and adds some smoothness thereto, that would not change the basic character of the produce.

Description given there is open ended inasmuch as the Chapter Note itself uses the expression "inter alia". Further, while mentioning the products which would be covered under the said Chapter Heading 04.04, and stating about the additions which could be made, the crucial words are "whether or not". Therefore, the additives which can be added while making the product are illustrative only and merely because stabilizer is not mentioned therein would not mean that after adding the stabilizer the product in question ceases to be dairy produce. -View taken by CESTAT is perfectly in tune with legal position and does not call for any interference. [Decided against Revenue]

COMMISSIONER OF CENTRAL EXCISE, MUMBAI-III VERSUS M/S. R.D.C. CONCRETE (INDIA) LTD. (SUPREME COURT)

BRIEF: Whether the product manufactured out of stone aggregates, cement, water, sand is 'dry mixture' or 'ready mix concrete' and the classification thereof is under Heading 3823 (now 3824).

OUR TAKE: The hon'ble SUPREME COURT held that it was so held by CESTAT in the case of 'Associated Cement Co. Ltd. v. Commissioner of Central Excise, Mumbai' by its decision dated 17.11.2000 reported in [2000 (11) TMI 970 - CEGAT, MUMBAI]. We, further, find that the aforesaid view of the CESTAT was affirmed by this Court holding that the classification of ready mix concrete was under Chapter Heading 68 for the period prior to 01.03.1997. After the affirmation of the view of the CESTAT by this Court as aforesaid, the Department not only accepted the said view but Central Board of Excise and Customs, New Delhi, issued Circular No. 601/38/2001-CX dated 20.11.2001 affirming the classification of this product. [Decided against Revenue]

CENTRAL EXCISE

COURT DECISIONS

COMMISSIONER OF CENTRAL EXCISE VERSUS M/S AMRIT CORPORATION LTD. (SUPREME COURT)

BRIEF: Classification of milk shake mix and soft serve mix. The additives which can be added while making the product are illustrative only and merely because stabilizer is not mentioned therein would not mean that after adding the stabilizer the product in question ceases to be dairy produce.

COMMISSIONER OF CENTRAL EXCISE, BANGALORE VERSUS M/S. HIMALAYA DRUG COMPANY (SUPREME COURT)

BRIEF: MRP based Valuation. Revenue was of the view that since the face wash gel is sold free along with dandruff shampoo the value / price of face wash gel should also be included and raised demand in this behalf applying the provisions of Section 4A. Contention of revenue has no merit.

OUR TAKE: The hon'ble SUPREME COURT held that Tribunal has observed that, "Since the Revenue has not contested that the products in question are covered under Section 4A and Standards of Weights and Measures Act, we hold that the products are assessable under Section 4A. In view of the decided case laws, there will not be any duty liability on the gel supplied free, hence there is no merit in the impugned order." No merit in this appeal which is, accordingly, dismissed. CESTAT has rightly decided the issue. [**Decided against Revenue**]

THE COMMISSIONER OF CENTRAL EXCISE CUSTOMS AND SERVICE TAX VERSUS M/S APOLLO TYRES LTD. (KERALA HIGH COURT)

BRIEF: Utilization of CENVAT credit of the Additional Excise Duty. Restriction applied only in the payment of BED and SED which alone is payable under the Excise Tariff Act and not to AED payable under Section 3 of Act 58 of 1957.

OUR TAKE: The hon'ble KERALA HIGH COURT held that reading of the Tribunal's order in CEAT Tyres' case [2010 (3) TMI 621 - CESTAT, MUMBAI] shows that the issues raised in these appeals, were exactly similar and therefore the Tribunal justified in proceeding on the basis that the controversy raised before it was covered by the Tribunal's order in CEAT Tyres case. It is also seen that the order of the Delhi Tribunal in Good Year India's case [2005 (10) TMI 400 - CESTAT, NEW DELHI] was confirmed by the High Court of Punjab and Haryana. Though, SLP was filed by the department against this judgment of the High Court that was rejected by the Apex Court on the ground of delay and keeping the question of law opened, by its order [2008 (3) TMI 672 - SUPREME COURT]. Credit of AED paid on or after 01.04.2000, is permitted to be utilized towards payment of duty of excise leviable under the first schedule or the second schedule to the Excise Tariff Act. In other words, the restriction introduced by the explanation was only in the utilization of the accumulated credit of AED towards payment of duty under the schedules of Excise Tariff Act. This means that this restriction applied only in the payment of BED and SED, which alone is payable under the Excise Tariff Act and not to AED payable under Section 3 of Act 58 of 1957. [**Decided against Revenue**]

M/S MOHAN BREWERIES & DISTILLERIES LTD. VERSUS THE COMMISSIONER OF CENTRAL EXCISE (MADRAS HIGH COURT)

BRIEF: Whether in the absence of any restriction in the provisions of the CENVAT CREDIT Rules, 2002 and as in force during the period in dispute, the Tribunal was justified in holding that the appellant was dis-entitled to CENVAT CREDIT merely on the strength of the Exim policy as in force?

OUR TAKE: The hon'ble MADRAS HIGH COURT held that under the Exemption Notifications, if the importers produced DEPB scrip and availed the exemption for clearance of goods, the goods become non-duty paid goods. The value of DEPB scrip, once used, gets extinguished and hence there would be no question of seeking CENVAT CREDIT thereafter. Commissioner (Appeals) as well as the Tribunal relied upon a Larger Bench decision of the CESTAT in ESSAR Steel Limited v. Commissioner [2004 (8) TMI 123 - CESTAT, NEW DELHI]. The said decision is not overruled so far by any High Court. But according to the learned counsel for the appellant, the decision of the Larger Bench was watered down to a great extent by this Court in Commissioner of Central Excise v. Spic Limited [2013 (9) TMI 93 - MADRAS HIGH COURT]. Therefore, after a specific prohibition was introduced under the Scheme from 1.4.2000 onwards, it is not possible for the appellant to claim the benefit in respect of the Bill of Entry of the year 2003. Therefore, the decision in Spic, even if it is taken to water down the decision of the Larger Bench in ESSAR Steel Limited, does so only in respect of the period prior to 2000. Therefore, the decision of this Court in Spic is not favorable to the appellant. [**Decided against assessee**]

CUSTOMS

NOTIFICATIONS & CIRCULARS

The Govt. vide Notification No. 95/2015, dated 29 September, 2015 seeks to amend Notification of the Central Board of Excise and Customs No. 93/2015-CUSTOMS (N.T.) dated the 17th September, 2015.

OUR TAKE: There is amendment in the Schedule- I of the said

Notification, for Serial No. 12 and the entries relating thereto. For foreign currency South African Rand rate of exchange of one unit of foreign currency equivalent to Indian rupees is 4.85 for imported goods and 4.55 for export goods.

The **Govt. vide Notification No. 97/2015, dated 1 October, 2015** determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 2nd October, 2015, be the rate mentioned against it in the corresponding entry in Column (3) thereof, for the purpose of the said section, relating to imported and export goods.

OUR TAKE: CBEC declared rate of exchange of one unit of foreign currency equivalent to Indian rupees. Readers are requested to read the said Notification. It is self-explanatory.

The **Govt. vide Notification No. 48/2015, dated 30 September, 2015** seeks to further amend notification No. 12/2012, dated 17.03.2012.

OUR TAKE: There is amendment in serial number 21, insertion of serial no. 21B, clause (a) shall be omitted in the proviso, and for the figures, letters and words "1st day of October, 2015", the figures, letters and words "1st day of January, 2016" shall be substituted. Readers are requested to read the said Notification. It is self-explanatory.

COURT DECISIONS

COMMISSIONER OF CUSTOMS (IMPORTS) , MUMBAI VERSUS M/S. BAYER CORP SCIENCE LTD. & ORS. (SUPREME COURT)

BRIEF: Misdeclaration of value on Valuation on import of Mencozeb Technical 85 at US 2.10 per kg CIF. Sole distributor. Rejection of value. No evidence of any nature whatsoever is brought on record to show that they were contemporaneous sales/transactions at high price. No demand.

OUR TAKE: The hon'ble **SUPREME COURT** held that on perusal of the transaction between M/s. R & H and the assessee, as it is clear from the reading of agreement, was at arm's length. By no stretch of imagination it can be said that M/s. R&H had been controlling the assessee either directly or indirectly. In fact, there was no such allegation in the show cause notice nor any finding in this behalf in the

Order-in-Original was rendered by the Commissioner. Before rejecting the invoice price the Department has to give cogent reasons for such rejection. There are no such cogent reasons coming forth in the present case. Moreover, it is to be borne in mind, as stated in para 14 of the said judgment, that the onus is on the Department by leading cogent evidence. No evidence of any nature whatsoever is brought on record to show that they were contemporaneous sales/transactions at high price. Reliance upon the agreement between M/s. Indofil and M/s. R&H is of no avail as admittedly the transaction between the aforesaid two parties were for the period prior to 01.11.1995 and they were not contemporaneous. We, thus, do not find any error in the judgment of the Tribunal. **[Decided against Revenue]**

INCOME TAX

NOTIFICATIONS & CIRCULARS

The **Govt. vide Notification No. 75/2015, dated 23 September, 2015** seek to amend amend the Income-tax Rules, 1962. These rules may be called the Income-tax (Thirteenth Amendment) Rules, 2015.

OUR TAKE: In the Income-tax Rules, 1962, in rule 2BB, in sub-rule (2), in the Table, against serial number 11, in the entry under column (2) relating to "name of allowance", after the words "who is blind", the words "or deaf and dumb" shall be inserted.

The **Govt. vide Notification No. 76/2015, dated 29 September, 2015** makes Income-tax (14th Amendment) Rules, 2015 further to amend the Income-tax Rules, 1962 which shall come into force on the 1st day of October, 2015.

OUR TAKE: There is amendment in:

Rule 29C for declaration by person claiming receipt of certain incomes without deduction of tax,

And in Appendix-II of the said rules in Form No.15G and Form No.15H.

There is change in Format and Procedure for Self Declaration in form No.15G or 15H to Reduce the Cost of Compliance

and Ease the Compliance Burden for both, the Tax Payer and the Tax Deductor.

The **Govt. vide Order under Section 119 of the Income-tax Act, 1961, dated 1 October, 2015** orders that the returns of income and audit reports u/s 44AB due for e-filing by 30th September, 2015 may be filed, across the country, by 31st October, 2015.

COURT DECISIONS

M/S MONIKA INDIA VERSUS THE INCOME TAX OFFICER-WARD 12 (2) (1) (BOMBAY HIGH COURT)

BRIEF: Whether the Tribunal after upholding the contention of the Appellant that the orders of the Assessing Officer & Commissioner of Income Tax (Appeals) were passed in breach of the natural justice in the absence of the cross examination, is correct in sustaining the orders on the basis of other circumstances?

OUR TAKE: The hon'ble **BOMBAY HIGH COURT** held that the Tribunal by the impugned order accepted the Respondent's appeal before it to the extent the order of the Assessing Officer and the CIT(A) placed reliance upon the statements of the three persons made to the Commissionerate at Ludhiana without being available for cross examination. This was not permissible as being in breach of natural justice. However, after holding the above, the impugned order proceeds to consider the other evidence on record to examine whether or not the disallowance of loss by the lower authority could be sustained even after ignoring the statements of persons who were not offered for the cross examination. The impugned order found that both the Assessing Officer and the CIT(A) had on the basis of other evidences and surrounding circumstances as set out above, concluded that loss claimed, was not genuine. The impugned order also relied upon the dictum set out by the Apex Court in CIT v/s. Durga Prasad More [1971 (8) TMI 17 - SUPREME Court] and Sumati Dayal v/s. CIT [1995 (3) TMI 3 - SUPREME Court] that taxing authorities are entitled to look at the surrounding circumstances to find out the reality of the affairs on the test of human probabilities (de hors the evidence recorded on commission). This is so, as observed by the Apex Court "apparent being not real." In the circumstances, it concluded that the loss was not genuine.

The finding of fact recorded by the impugned order is not shown to be perverse and/or arbitrary. It is a possible view in the context of facts arising in this case for consideration. Thus, the question as proposed for our consideration does not give rise to any substantial question of law. Accordingly, we see no reason to entertain the present Appeal.

M/S MOTIA CONSTRUCTIONS LIMITED VERSUS COMMISSIONER OF INCOME TAX (PUNJAB & HARYANA HIGH COURT)

BRIEF: Dismissal of application for additional evidence as well as the appeal. Disallowance of development expenses. Explanation appears to have manufactured for the purpose of furnishing an explanation. Application was rightly rejected.

OUR TAKE: The hon'ble **PUNJAB & HARYANA HIGH COURT** held that the appellant could have easily told the Assessing Officer or the Commissioner of Income Tax (Appeals) - 1, Ludhiana that the vouchers were in possession of another Director who had left the company. The explanation appears to have manufactured for the purpose of furnishing an explanation. The vouchers are not signed by and on behalf of the assessee and there is no evidence as to whether these payments were made for business purposes etc. and, therefore, even otherwise, irrelevant. The substantial question of law based upon a judgment of the Hon'ble Supreme Court in Tek Ram (dead through LRs) Vs. Commissioner of Income Tax, [2013 (8) TMI 459 - SUPREME COURT] is meaningless as documents produced by the assessee in the said case as additional evidence were found to be relevant. Reference to another judgment of this Court in CIT vs. Mukta Metal Works [2011 (2) TMI 250 - PUNJAB AND HARYANA HIGH COURT] is not tenable as additional evidence produced in the aforesaid case was held to be necessary for adjudication of the pending lis. [**Decided against assessee**]

VISHAL GARG AND OTHERS VERSUS UNION OF INDIA AND ANOTHER (PUNJAB & HARYANA HIGH COURT)

BRIEF: Where accounts are required to be audited u/s 44AB, it is considered appropriate to extend due date u/s 139(1) for e-filing of returns upto 31st October 2015 for which the CBDT shall issue appropriate notification/instructions u/s 119.

OUR TAKE: The hon'ble **PUNJAB & HARYANA HIGH COURT** held that a Single Bench of the Delhi High Court in Avinash Gupta vs. Union of India and others, [2015 (9) TMI 1123 - DELHI HIGH COURT], had the occasion to consider the issue

relating to extension of time for e-filing of return beyond 30th September 2015. The writ petition was dismissed but certain observations were recorded therein that the prescribed format to be filed alongwith the return should be notified by 1st day of the assessment year. - We are in agreement with the above observations but express our dissent with regard to rejection of prayer for extension of time in e-filing the returns beyond 30th September 2015.

As noticed above, we have already expressed our dissent with the order passed by the Delhi High Court qua dismissing the writ petition with regard to extension of time for e-filing of the income tax returns. Accordingly, we are unable to concur with the view expressed by the Rajasthan High Court which relied upon the decision of Delhi High Court.

Taking the totality of facts and circumstances of the case, it is considered appropriate to extend the due date for e-filing of returns upto 31st October 2015 for which the CBDT shall issue appropriate notification/instructions under Section 119 of the Act. Direction is also issued to the respondents to ensure that the forms etc. which are to be prescribed for the audit report and for e-filing the returns should ordinarily be made available on the first day of April of the assessment year. [**Decided in favor of petitioners**]

SHAKUN MEHTA VERSUS COMMISSIONER OF INCOME TAX, HISAR (PUNJAB AND HARYANA HIGH COURT)

BRIEF: Addition received as advance for sale of property. There is no evidence why the deal did not mature. How the amounts were returned whether any receipts were taken or not is not clear. All these circumstances make the whole story not plausible.

OUR TAKE: The hon'ble PUNJAB AND HARYANA HIGH COURT held that it is very difficult to believe that the assessee who is not owner of the land had entered into agreement when the land belonged to her husband. Though it was stated before Assessing Officer and the Ld. CIT(A) that Power of Attorney was executed by her husband in favour of the assessee but copy of the power of attorney has not been produced before the Assessing Officer and, therefore, the Ld. CIT(A) should have been little careful in asking for the power of attorney but he simply believed this theory without examining the Power of Attorney

All the four persons have not stated how much money each one of them has paid. No specific source of the payment has been explained and it has been simply stated that they are agriculturists. When four persons have paid a sum of ₹ 43 lakhs the Assessing Officer could have verified the sources

only if such persons were produced before him. We fail to understand how Ld. CIT(A) believed these affidavits particulars when the Assessing Officer had insisted on producing these persons. The affidavits are clearly in the nature of self serving documents and cannot be believed. Further there is no evidence why the deal did not mature. How the amounts were returned whether any receipts were taken or not is not clear. All these circumstances make the whole story not plausible. In our opinion it seems to be only a story to explain the deposits of cash and does not have any substance. Therefore, we set aside the order of Ld. CIT(A) and restore that to Assessing Officer.

The aforesaid findings of fact recorded by the assessing authority and the Tribunal sustaining the addition though received as advance for sale of property are not shown to be erroneous or perverse in any manner. Thus, no substantial question of law arises in this appeal. [**Decided against assessee**]

STATE TAXES

ALL INDIA VAT

CHATTISGARH

The **Govt. vide Notification No. F-10-36 /2015/CT/V (62), dated 30 September, 2015** extend time limit of Assessment Cases for FY 2011-12 to 2014-15 and also for Form 18 and 18C to 31 March, 2016.

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

DELHI

The **Govt. vide Notification No. F.3(515)/Policy/VAT/2015/805-816, dated 29 September, 2015** extend the last date for filing of online returns for the 1st quarter of the year 2015-16, in Forms EC-II and EC-III to 15/10/2015.

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

The **Govt. vide Notification No. F.3(352)/Policy/VAT/2013/818-829, dated 30 September, 2015** notify that the Form DP-1 shall be submitted online by all the dealers latest by 21/10/2015. The form shall be filed by dealers registered upto 30/09/2015.

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

The **Govt. vide Circular No. 26 of 205-16 F.7(420)/Policy/2011/PF/832-38, dated 30 September, 2015** extend the last date of filing of online return in Form 9 for the year 2014-15, prescribed under Rule 4 of Central Sales Tax (Delhi) Rules, 2005 to 31/10/2015.

OUR TAKE: The return is to be filed by dealers who have made interstate sale at concessional rates against statutory forms 'C' or stock transferred against 'F' forms or sold the goods against 'H' forms to dealers (other than Delhi) or claimed deduction from taxable turnover against E-I/EII forms or I/J forms etc.

The dealers who have not made the sale as mentioned above need not file reconciliation return in Form.

HIMACHAL PRADESH

The **Govt. vide Notification No. EXN-F(10)-20/2014, dated 1 October, 2015** amends Part-II-'A' of Schedule 'A' appended to the Himachal Pradesh Value Added Tax Act, 2005 (Act No.12 of 2005), with effect from 01-10-2015.

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

MAHARASHTRA

The **Govt. vide Notification No. VAT. 1515/C.R.128A/Taxation-1, dated 30 September, 2015**

amends the Schedule 'B' and 'D' appended to the Maharashtra Value Added Tax Act, 2002.

OUR TAKE: In Schedule B, rate of tax for each item is amended to 1.2%. And in entry no. 3 "Precious stones including diamonds, semi-precious stones and pearls, whether real or cultured" shall be substituted. There in increase in rate of tax in Schedule D. Readers are requested to read the said notification for details.

The **Govt. vide Circular No. 14T of 2015, dated 30 September, 2015** clarified that the facility for direct remittance of refund through NEFT, in the bank account of the dealer has been made available by the Sales Tax Department.

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

The **Govt. vide Notification No. LBT. 2015/C.R.181/UD-32, dated 1 October, 2015** specifies categories of goods on which no Local Body Tax shall be leviable with effect from 1st October 2015.

OUR TAKE: Specified categories of goods on which no Local Body Tax shall be leviable are as follows:

1. High Speed Diesel Oil.
2. Petrol.

UTTARAKHAND

The **Govt. vide Uttarakhand Circular dated 30 September, 2015** extend date for using printed Form-16 till 15/10/2015.

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

WEST BENGAL

The **Govt. vide issued order dated 28 September, 2015** regarding e-Return, generation of Profession Tax Payment Certificate, generation of ID number for Government officers & surrender of certificate of registration or certificate of enrolment & e-Payment of Profession Tax.

OUR TAKE: The amendments are as follows:

1. Transmit the data in Form III electronically for filing of return on Professions, Trades, Callings and Employments Act, 1979
 2. Employer to generate the Profession Tax Payment Certificate (PTPC) electronically.
 3. Any Government officer, not liable to obtain registration, but who comes under the purview of rule 13 of the Rules, shall apply electronically to generate a certificate of Government ID.
 4. Submit electronically an application for amendment or surrender, as the case may be of certificate of Government ID desires the certificate to be amended or surrendered
 5. The holder of a certificate of registration or certificate of enrolment desires the certificate to be surrendered shall submit an application electronically
 6. All relevant payments relating to Profession Tax shall be made through the GRIPS portal via 'PT e-Payment'
8. Acceptance as evidence in any suit, prosecution or other legal proceeding(s) in any court of law or before any authority.

COURT DECISIONS

COMMISSIONER OF TAXES, DISPUR, GUWAHATI VERSUS MEGHA ASSAM COAL MINES INDIA PVT. LTD. AND ANOTHER (GUWAHATI HIGH COURT)

BRIEF: Cancellation of eligibility certificate. Exemption from sales tax. New industries to be established within the State of Assam after April 1 1991 as per industrial policy. It is not a case of obtaining eligibility certificate by fraud or by furnishing of wrong information. Exemption resotred.

OUR TAKE: The hon'ble **GUWAHATI HIGH COURT** held that it is not a case of obtaining eligibility certificate by fraud or by furnishing of wrong information. Nothing has been pointed out regarding violation of any of the conditions mentioned in the eligibility certificate. It is quite clear that the eligibility certificate granted to respondent No. 1 was cancelled because of change of opinion as to the eligibility of respondent No.1 to get the benefit. This is not permissible. **[Decided against the revenue]**

M/S MAPRA LABORATORIES PVT. LTD., LUPIN LTD, MANKIND PHARMA LTD, M/S ALKEM LABORATORIES LTD, RANBAXY LABORATORIES LTD, M/S ALEMBIC PHARMACEUTICALS LTD, M/S CACHET PHARMACEUTICALS PVT LTD, M/S GALPHA LABORATORIES LTD, M/S ARISTO PHARMACEUTICALS PVT LTD, M/S MAPRA LABORATORIES PVT LTD, M/S RIGA SUGAR COMPANY LTD (DISTILLERY DIVISION) , CHENNAI NETWORK INFRASTRUCTURE LTD VERSUS THE COMMERCIAL TAXES OFFICER SPECIAL CIRCLE, PATNA AND OTHERS (PATNA HIGH COURT)

BRIEF: Levy of VAT on MRP and deduction of discount under Bihar VAT. The State Legislature not being competent to provide for levy of tax on the first point of sale on the basis of MRP or any other notional value there could be no question of the legislature providing for the same even by way of exercise of option by the dealer concerned.

OUR TAKE: The hon'ble **PATNA HIGH COURT** held that providing for measure of tax on the subject of tax by substituting any notional value like the MRP or otherwise, is beyond the legislative competence of the State legislature. Decision in the case of State of Rajasthan & Anr. Vs. Rajasthan Chemist Association: [2006 (7) TMI 17 - SUPREME COURT OF INDIA] followed.

The State Legislature not being competent to provide for levy of tax on the first point of sale on the basis of MRP or any other notional value, there could be no question of the legislature providing for the same even by way of exercise of option by the dealer concerned. The matter goes to the root of the competence of the State Legislature under the Constitution to frame any such enactment and if it is not competent to enact such a measure then it is equally not competent to do the same by way of providing option for levy of tax upon the dealer in such matter.

Thus, in the light of the aforesaid discussion Sub-section (5) of Section 15 of the Bihar Value Added Tax, 2005 is declared ultra vires. Consequently, the impugned orders passed by the Commissioner in the revision application as also by the Assessing authority in accordance with the same cannot be sustained and, are accordingly, quashed. **[Decided in favor of assessee]**

OTHER UPDATES

ALLIED LAW

COURT DECISIONS

R. VIVEKANANDAN VERSUS CHANDRAKANTHAN (MADRAS HIGH COURT)

BRIEF: Offence u/s.138 of the Negotiable Instruments Act. Cheques were returned unpaid owing to insufficient funds. Only when such Trust/College is arrayed as an accused petitioner may be proceeded against on the assertion that he is incharge of and responsible to the Trust/College in the conduct of its affairs.

OUR TAKE: The hon'ble **MADRAS HIGH COURT** held that two of the cheques are drawn on the account of the College and one on the account of the Trust. Only the signatory of the cheque/Chairman of the College has been arrayed as an accused. When admittedly, borrowings were effected towards development of the College constituted under the Trust, the liability therein primarily would be that of the Trust/College. Only when such Trust/College is arrayed as an accused, petitioner may be proceeded against on the assertion that he is incharge of and responsible to the Trust/College in the conduct of its affairs. That he is so would find support from the fact that he is the signatory of the cheque. However, in the absence of arraying the Trust/College, the question of vicarious liability of petitioner does not arise.

This Criminal Revision shall stand allowed. The judgments of Courts below shall stand set aside. Petitioner is acquitted of all Charges. Fine amount, if any paid, shall be refunded to petitioner. Bail bonds, if any, shall stand cancelled. [**Decided in favor of petitioner**]

DGFT

The **Govt. vide PUBLIC NOTICE NO. 38/2015-2020, dated 1 October, 2015** amended in Appendix – 2T in Appendices and Aayat Niryat Forms of FTP 2015-20.

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

FEMA

The **Govt. vide Notification No. FEMA. 348/2015, dated 25 September, 2015** makes the regulations relating to regularization of assets held abroad by a person resident in India.

OUR TAKE: RBI makes Foreign Exchange Management (Regularization of assets held abroad by a person resident in India) Regulations, 2015. Readers are requested to read the said Notification. It is self-explanatory.

The **Govt. vide Circular No.17 (RBI/2015-16/193), dated 29 September, 2015** issued framework for issuance of Rupee denominated bonds overseas within the overarching ECB policy.

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

The **Govt. vide Circular No.18, dated 25 September, 2015** issued clarification regarding Regularisation of assets held abroad by a person resident in India under Foreign Exchange Management Act, 1999.

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

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