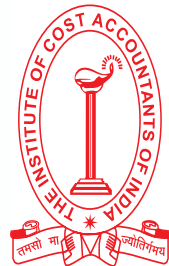


# TAX Bulletin

March, 2018 Volume - 11



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

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### MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”



### VISION STATEMENT

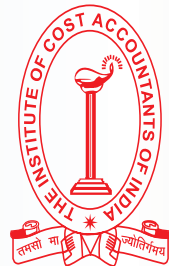
“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

## Objectives of Taxation Committee:

1. Preparation of Guidance Note and Analysis of various Tax matters for best Management Accounting Practices for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit suggestions to the Ministry from time to time for the betterment of Economic growth of the Country.
4. Evaluating opportunities for CMAs to make effective value addition to the tax-economy.
5. Designing of Certificate Course on Direct and Indirect Tax for members and stake holders.

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## FROM THE DESK OF THE CHAIRMAN

Dear Colleagues,

Wishing you a Happy & Prosperous festival of Colours....!!!

In continuing my endeavor to release fortnightly Tax Bulletin, I am acknowledging the continuous effort of TRD Members & support of Resource Persons who are contributing their valuable time despite of their busy schedule to make the bulletin effective & acceptable.

I wish to inform that with our continuous efforts, the typographical error in the text of paragraph 3 of clause 2 of the TRP (Amendment) Scheme, 2018 the name of the Institute has been written as “the Institute of Certified Management Accountants of India” in place of “the Institute of Cost Accountants of India” has been rectified.

The Government of India, Ministry of Finance, and Department of Revenue (Central Board of Direct Taxes) has issued “CORRIGENDA” vide notification no. G.S.R. 171(E) dated 16th February, 2018 in lieu of earlier notification no G.S.R. 44(E) dated 19th January, 2018 published in the Gazette of India, Extraordinary, Part - II Section 3, sub section (i) under Tax Return Preparer (Amendment) Scheme, 2018, recognizing individuals, who hold a degree from “The Institute of Cost Accountants of India”, shall be eligible to act as Tax Return Preparer.

I am pleased to share that “Certificate Course on GST” has been commenced on 17<sup>th</sup> February, 2018 in Kolkata, Pune, Delhi, Chennai, Cochin, Trivandrum, Bangalore, Hyderabad and Mumbai. 2<sup>nd</sup> phase the course is going to be started in other locations too.

I take this opportunity to inform you that Tax Research Department in association with Rashtriya Ispat Nigam Limited (RINL) has conducted a five-day GST workshop at Vishakhapatnam from 21 - 25<sup>th</sup> February 2018. The program was a grand success.

I would like to share that Tax Research Department is going to organize a two days joint seminar with Fakir Mohan University, Balasore, Odisha on 9<sup>th</sup> & 10<sup>th</sup> March, 2018. I am requesting for active participation of all to make this event a great success.

I would also like to inform that 58<sup>th</sup> National Cost Convention 2018 will be organized by the Institute on 16<sup>th</sup> & 17<sup>th</sup> March, 2018 in Vigyan Bhawan, New Delhi with the theme “**New India 2022 - Role of CMAs’ from Intent to Action**”. You may please refer to the brochure (attached in this Bulletin) and the Institute’s website for further details and clarifications. I request you to participate in this National event of the Institute to make a grand success.

I appreciate the whole hearted participation of all TRD members to achieve our objective.

**CMA Niranjana Mishra**  
Chairman – Taxation Committee  
5<sup>th</sup> March, 2018

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CMA Rashmi Gupta	-	Deputy Director - Tax Research
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## VALUATION OF 'BETI BACHAO BETI PADHAO' CAMPAIGN UNDER IGST ACT, 2017

CMA ANIL SHARMA  
Practicing Cost Accountant

Valuation of Goods or Service has always been a challenge. Under Central excise also valuation has been a big challenge and subject to litigation. Similarly, under Service tax there are number of cases where valuation has been challenged under court of law.

In the year 2000, rules of 'Transaction Value' were introduced which clarified and resolved various issues related with valuation of goods or services but was not enough to tackle the issue completely. In 2012, Hon'ble Supreme Court decided a case on valuation, where huge penalty was imposed on one of the biggest car manufacturer for selling cars below the manufacturing cost. So there is no full proof frame work where valuation can be determined and taxes can be charged accurately. It has always been a cause of contention between assesses and the Excise and Service tax Department.

In Goods and Service tax Act, 2017 a attempt has been made to clarify and simplify the process of valuation of goods and service in very user friendly manner but still various aspect are left unanswered, especially in case of Inter-state transactions. Under IGST, GST Council has issued some helping notes regarding valuation under IGST with example to make the issues more clear. Hence, issued proper guidelines from time to time. In line with that on 28.06.2017, issued a notification no 4/2017 followed by notification no 12/2017 dt 15.11.2017 giving insight to the valuation of advertisement services provided on pan India basis.

Section 12(14) of IGST Act, 2017 deals with the provisions of advertisement services as provided to the government by different agencies for different type of advertisement services and through above said two notifications government has tried to make the system transparent and simple. Section 12(14) reproduced as under:

*"The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be*

*determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed".*

So if we go by the provisions of said section, it mention that ***the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contractor agreement entered in to in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.***

Para 3 of IGST Rules 2017 explains that the proportion of value attributable to different States or Union territories, in the case of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority, ***in the absence of any term in the contract between the supplier of service and recipient of services***, shall be determined in the following manner namely:

- (a) ***In the case of newspapers and publications***, the amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in a State or Union territory, as the case may be, is the value of advertisement service attributable to the dissemination in such State or Union territory

***For example:***

*ABC, government agency for advertising, issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (having head office in one of the metros) for the editions of Delhi, Mumbai, Lucknow and Jaipur and so on. The release order has details like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper. **The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan.** The amounts payable to the Mumbai editions would*



constitute the proportion of value for the state of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF will issue separate State wise and Union territory wise invoices based on the editions.

- (b) **In the case of printed material** like pamphlets, leaflets, diaries, calendars, T shirts etc, the amount payable for the distribution of a specific number of such materials in a particular State or Union territory is the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

**Illustration:**

As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of one lakh pamphlets ( at a total cost of one lakh rupees) to be distributed in the states of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or Department concerned at the time of giving the print order.

Let us assume that this breakup is twenty thousand, fifty thousand and thirty thousand respectively. This breakup should be indicated in the print order. **The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan.** The ratio of this breakup i.e 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State wise by GH to ABC indicating the value pertaining to that State i.e twenty thousand rupees- Haryana, fifty thousand rupees- Uttar Pradesh and thirty thousand rupees- Rajasthan.

- (c) **In the case of hoardings (other than those on trains)**, the amount payable for the hoardings located in each State or Union territory, as the case may be, is the value of advertisement service attributable to the dissemination in each such State or Union territory, as the case may be.

**Illustration:**

ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings nears the Airports in the four metros i.e. Delhi, Mumbai, Chennai and Kolkata.

The release order issued by ABC to IJ will have the city wise, location wise breakup of the amount

payable for such hoardings. The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the four metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State wise and Union territory wise by IJ to ABC indicating the value pertaining to that State or Union territory.

- (ii) **In the case of advertisements placed on trains**, the breakup, calculated on the basis of the ratio of the length of the railway track in each State for that train, of the amount payable for such advertisements is the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

**Illustration:**

ABC places an order on KL for advertisements to be placed on a train with regard to the "Janani Suraksha Yojana". The length of a track in a state will vary from train to train. Thus for advertisements to be placed on the Hazrat Nizamuddin - Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa.

**KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).**

**The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa.**

**The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory.**

If this ratio works out to say 0.5:0.5: 2:2:3:3:1, and the amount to be paid to KL is **one lakh twenty thousand rupees**, then KL will have to calculate the State wise and Union territory wise breakup of the value of the service, **which will be in the ratio of the length of the track in each State and Union territory.** In the given example the State wise and Union territory wise breakup works out to:

Delhi	₹5000/- (Rs. five thousand rupees only),
-------	--

Haryana	₹5000/- (Rs. five thousand rupees only),
Uttar Pradesh	₹20000/- (Rs. twenty thousand rupees only),
Madhya Pradesh	₹20000/- (Rs. twenty thousand rupees only),
Maharashtra	₹30000/- (Rs. thirty thousand rupees only),
Karnataka	₹30000/- (Rs. thirty thousand rupees only)
Goa	₹10000/- (Rs. ten thousand rupees only).

Separate invoices will have to be issued State wise and Union territory wise by KL to ABC indicating the value pertaining to that State or Union territory.

- (d) (i) **In the case of advertisements on the back of utility bills** of oil and gas companies etc, the amount payable for the advertisements on bills pertaining to consumers **having billing addresses** in such States or Union territory as the case may be, is the value of advertisement service attributable to dissemination in such State or Union territory.

(ii) **In the case of advertisements on railway tickets**, the breakup, calculated on the basis of the ratio of **the number of Railway Stations** in each State or Union territory, when applied to the amount payable for such advertisements, shall constitute the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

**Illustration:**

*ABC has issued a release order to MN for display of advertisements relating to the "Ujjwala" scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh. The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).*

- (e) **In the case of advertisements over radiostations** the amount payable to such radio station, which by virtue of its name is part of a State or Union territory, as the case may be, is the value of advertisement service attributable to dissemination in such State or Union territory, as the case may be.

**Illustration:**

*For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations. The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another state. Separate invoices will have to be issued State wise and Union territory wise by MN to ABC based on the value pertaining to each State or Union territory.*

- (f) **In the case of advertisement on television channels**, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely

- i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;
- ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter and at the beginning, the figures for the quarter 1st July, 2017 to 30th September, 2017 shall be used for the succeeding quarter 1st October, 2017 to 31st December, 2017;
- iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

- (g) **In the case of advertisements at cinema halls** the amount payable to a cinema hall or screens in a multiplex, in a State or Union territory, as the case may be, is the value of advertisement service

attributable to dissemination in such State or Union territory, as the case may be.

**basis of the telecommunication subscribers** in such State or Union territory.

**Illustration:**

*ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the states of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State wise and Union territory wise by ST to ABC indicating the value pertaining to that State.*

Though, through these guidelines council has tried level best to resolve the valuation issues especially in case of advertisement industry but still there are the areas where best judgment assessment have to play its role and cause of litigation will arise.

(h) **In the case of advertisements over internet**, the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the internet subscribers in such State or Union territory, which in turn, shall be calculated in the following manner, namely:-

- i) the **internet subscriber figures** for a State shall be taken from the figures published in this regard by the Telecom Regulatory Authority of India ;
- ii) the figures published for the last quarter of a given financial year shall be used for calculating the number of internet subscribers for the succeeding financial year and at the beginning, the figures for the last quarter of financial year 2016-2017 shall be used for the succeeding financial year 2017-2018;
- iii) where such internet subscriber figures relate to a region comprising of more than one State or Union territory, the subscriber figures for a State or Union territory of that region, shall be calculated by applying the **ratio of the populations of that State or Union territory**, as determined in the latest census, to such subscriber figures;
- iv) the ratio of the subscriber figures for each State or Union territory as so calculated, when applied to the amount payable for this service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

(i) **In the case of advertisements through short messaging service** the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be **calculated on the**



## TIME OF SUPPLY

**CMA Bhogavalli Mallikarjuna Gupta**  
Corporate Trainer and Advisor on GST

In the erstwhile tax regime, the point of taxation or the point of applicability of taxes were different for different taxes like in case of Central Excise it is on manufacture but levied at the time of removal of goods, in case of Service Tax at the time of invoicing or within 30 days of completion of service or in the case of VAT it is on the sale of goods. As the point of taxation is different for different taxes it was creating confusion and also becoming tough to manage the same, in GST the point of taxation is known as “Time of Supply” and it is different for goods and services as the nature of supply is different for both. Time of Supply determines the applicability of Taxes on the transaction be it supply of goods or services, i.e. at this point of the transaction the tax liability has to be accounted along with the issue of the tax invoice.

Time of Supply is defined in three sections in the CGST Act 2017, they are

Section 12 – Time of Supply for Goods

Section 13 – Time of Supply for Services

Section 14 – Change in rate of tax in respect of Supply of Goods or Services

### Time of Supply for Goods

The Time of Supply for Goods in GST is defined in Section 13 of the CGST Act and one major change is taxes are also applicable on receipt of money from the customers if received in advance. This provision was applicable in the erstwhile tax regime only for the Service Tax but not it is applicable to the goods under Central Excise or VAT.

The time of supply for goods can be classified into three broad categories

- Time of Supply for Goods – Forward Charge
- Time of Supply for Goods – Reverse Charge
- Time of Supply for Goods – Miscellaneous Provisions

#### **Time of Supply for Goods – Forward Charge**

Forward charge refers to the regular payment of taxes, i.e. the buyer pays the taxes to the supplier of goods and the supplier in turn remits the taxes to the tax authority.

The Time of Supply for Goods is the earliest of the following dates

- Date of Issue of Tax Invoice as per provisions of section 31 of the CGST Act
- Date of Receipt of Payment

Date of receipt refers to the payment refers to the date of entry in the books of accounts or date of deposit or credit in the bank account. The date of receipt of payment under GST is the earliest of the date of accounting or date the receipt in the books of accounts. This is a new requirement and proper care has to be taken for the same.

The time of supply for goods can be explained with the following illustration

Sl. No	Date of issue of invoice	Date of Receipt of Money	Time of Supply - earliest of the dates
1	21-July-17	1-Aug-2017	21-July-17
2	22-July-17	10-July-17	10-July-17

In case if the place of supply is not known at the time of receipt of payment, then the tax to be accounted for the receipt voucher is IGST. If a customer accounts the tax liability on the receipt voucher as IGST, not sure how the same will be adjusted if the supply is made within the state? Does the supplier have to apply for a refund or adjust it with his existing output liability for IGST?

In case if the tax rate is not known for the amount of advance receipt for the e supply of goods or services, then tax rate has to be considered as 18% basis of the provisions given in Rule 50, Sub rule K and clause (i).

In case if the place of supply is not known at the time of receipt of goods, then the same has to be considered as Interstate supply of goods that means IGST will be applicable on the receipt basis of the provision given in Rule 50, Sub rule K, clause (ii)

Accounting of taxes on receipt of money is a global phenomenon in VAT across the globe but the taxpayers in India are not used to it especially the same traders and

they were facing lot of procedural issues and finding tough to issue the receipt voucher, based on their recommendations, the government has given an exemption to the taxpayers with turnover less than Rs 150 Lacs for payment of taxes on receipt of advances for supply for goods wide Notification No. 40/2017 – Central Tax dated 13<sup>th</sup> Oct 2017 and subsequently made it applicable to all the taxpayers wide Notification No. 66/2017 – Central Tax, dated 15th November, 2017.

### Time of Supply for Goods under Reverse Charge

In the normal course of trade, the supplier collects the taxes from the recipient and remits the same to the tax authorities. In the case of a reverse charge, the tax is not collected by the supplier of goods or services or both, but the recipient pays the taxes directly to the government on his purchases. To remit the GST / SGST / UT GST / IGST / GST Cess, the buyer has to be registered under GST.

In GST, the reverse charge is also applicable to the supply of goods also and the applicable taxes are CGST/ SGST/ UT GST /IGST and Cess. The list of goods for which reverse charge is applicable will be issued by a notification on recommendations of the GST Council. Apart from the list of goods to be notified by the government from time to time on the recommendations of the GST Council, it is also applicable on the purchase of goods or services or both from an un-registered taxpayer. If any goods are purchased from an unregistered taxpayer in GST, the registered taxpayer has to pay taxes on such purchases at the time of receipt of the goods and issue a self-tax invoice to account the reverse charge liability. In case if the advance is being paid to the unregistered tax payer, a payment voucher has to be issued, and they are to be reported in the GSTR – 2.

The tax liability for the reverse charge taxes has to be paid without using the existing input tax credit of GST taxes. Once the GST reverse charge tax amount is paid, the taxpayer can claim the input tax credit and utilize the same for payment of other tax liabilities.

The time of supply for goods under reverse charge is the earliest of the following dates

- Date of receipt of goods
- Date on which payment is made
- Within 30 days from the date of issue of an invoice by the Supplier.

The same is explained with the following example

Sl. No	Date of Receipt of Goods	Date of Payment	Date on which Supplier issued the invoice	Time of Supply - earliest of the dates
1	14-July-17	15-July-17	14-July-17	14-July-17
2	15-July-	10-July-	15-July-17	10-July-17

	17	17		
3	09-Aug-17	13-Aug17	08-July-17	08-July-17

### Time of Supply of Goods – Miscellaneous

The miscellaneous provisions cover the time of supply for vouchers and issue of debit note for delayed payments.

### Supply of Vouchers

Vouchers are normally purchased at shopping malls or of specific brands or of e-commerce portals to be gifted or for personal use. GST is also applicable on the vouchers, and the earliest date of the following dates is considered for the time of supply

- Date of issue of voucher
- Date of redemption if issue of voucher is not now

In a normal world, the date of issue of the voucher is known so that that date will be considered for the time of supply and the tax liability is accounted.

The same is explained in the following illustration

Sl. No	Date of issue of Voucher	Date of Redemption of Voucher	Time of Supply - earliest of the dates
1	14-Aug-17	25-Dec-17	14-Aug-17
2		17-July-17	17-July-17

If GST is accounted and paid at the time of issue of the voucher, then GST is not applicable at the time of redemption. Going forward wherever gift vouchers/movie tickets/tickets issued for customers or any others GST will be applicable, and this should be part the event budget or promotions.

### Debit notes for interest / late payment

Normally for any supply, there will be payment terms and the recipients are expected to honor the payment terms accordingly. In case if the same does not happen, then for delayed period, a debit note is raised, and on such charges also GST inapplicable. The accounting of GST on such debit notes is on receipt of money from the customer but not on the date of issue of debit note like tax invoice.

Care has to be taken for such debit notes, and the proper configuration should be done in the ERP / accounting software else it can unnecessarily lead to the pre-payment of taxes and could result in more stress on working capital.

### Time of Supply for Services

Though the act is same for good and services in GST, due to the difference in the nature of the goods and services, the provisions are different.

The time of supply for services can also be classified into three different categories similar to the time of supply of goods as

- Time of Supply – Forward Charge
- Time of Supply – Revers Charge
- Time of Supply - Miscellaneous Provisions

#### Time of Supply of Services – Forward Charge

In the case of a forward charge, the taxes on the outward supply are collected from the recipient and deposited with the tax authorities by 20th of the next month.

#### **Time of supply of service – earliest date of invoice or payment**

The time supply for services in case of a forward charge is the earliest of the following dates

- Date of issue of invoice
- Date of receipt of payment

The same is explained with an illustration

Sl. No	Date of issue of invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	21-July-17	25-July-17	21-July-17
2	22-July-17	10-July-17	10-July-17

#### **Time of supply of service – provision of service or payment**

The time supply for services in case of forward charge is the earliest of the following dates

- Date of provision of service if invoice is not issued within 30 days
- Date of receipt of payment

The same is explained with an illustration

Sl. No	Date of provision of service	Date of issue of invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	20-July-17	27-Aug-17	25-July-17	20-July-17
2	25-Jul-17	22-July-17	10-July-17	10-July-17

#### **Time of supply of service – date on which recipient shows services**

This case is applicable in cases where the service rendered first, and then on the basis of the service engineers report the company issues the tax invoice. In some cases, as and when the service engineer provides the service, the recipient accounts in his books on the same date and such cases the supplier of services is

required to issue the tax invoice on the date on which the recipient has recorded the services in his books.

In the normal course, it is simple, but there will be some challenges in case of service being provided at the far end of the month and the invoice is raised during the next month, in such cases, it has to be handled accordingly.

#### **Date of receipt of payment from recipient**

Under GST if the advance is received from the customer before the supply be it for the supply of goods or services or both, then receipt voucher has to be issued to the supplier, and tax liability has to be paid. This is a paradigm shift from the requirements in Central Excise or VAT taxes where tax is not required to be computed and deposited for the supply of goods. This amounts to a major change in the business process.

In case advance receipt from the customer, the payment date is considered to be the earliest of the following

- The date on which the supplier enters the payment in his books of accounts
- The date on which the payment is credited to the supplier's bank account.

In case if the place of supply is not known at the time of receipt of payment, then the tax to be accounted for the receipt voucher is IGST. If a customer accounts the tax liability on the receipt voucher as IGST, not sure how the same will be adjusted if the supply is made within the state? Does the supplier have to apply for a refund or adjust it with his existing output liability for IGST?

In case if the tax rate is not known for the amount of advance received for future supply of goods or services, then it has to be accounted for 18%. How the same will be adjusted if the tax rate is 18% on the receipt voucher and the actual supplies are made at 12% or 5% or 28% or against exempted supply.

To avoid such issues, it is recommended to know the place of supply and tax rate at the time of account of tax liability on the advance receipt.

#### Time of supply of Services – Reverse Charge

Reverse charge is also applicable for the supply of services.

The time of supply for services under reverse charge is the earliest of the following dates

- Date on which payment is made
- Within 60 days from the date of issue of invoice by the supplier/service provider

Date of payment is the earliest date of the payment made i.e. the system date or date on which the bank account of the service receiver is debited.

The time of supply for reverse charge is with examples

Sl. No	Date of Payment	Date on which Supplier issued the invoice	Time of Supply - earliest of the dates
2	10-June-16	10-June-16	10-June-16
3	13-Aug-16	08-June-16	07-Aug-16

Time of supply for Services – Miscellaneous

The miscellaneous provisions cover the time of supply for vouchers and issue of debit note for delayed payments.

### Supply of Vouchers

Vouchers are normally purchased at shopping malls or of specific brands or of e-commerce portals to be gifted or for personal use for servicing of appliances of machinery or issued by the manufacturer or dealer as part of sales promotion. GST is also applicable on the vouchers, and the earliest date of the following dates is considered for the time of supply

- Date of issue of voucher
- Date of redemption if issue of voucher is not now

In a normal world, the date of issue of the voucher is known so that that date is considered for the time of supply and the tax liability is accounted.

The same is explained in the following illustration

Sl. No	Date of issue of Voucher	Date of Redemption of Voucher	Time of Supply - earliest of the dates
1	14-Aug-17	25-Dec-17	14-Aug-17
2		17-July-17	17-July-17

If GST is accounted and paid at the time of issue of the voucher, then GST is not applicable at the time of redemption to the extent of the value of the voucher.

### Debit notes for interest / late payment

Normally for any supply, there will be payment terms and the recipients are expected to honor the payment terms accordingly. In case if the same does not happen, then normally for delayed payments debit note is raised and, on such charges, also GST is applicable. The accounting of GST on such debit notes is on receipt of money from the customer but not on the date of issue of debit note like tax invoice.

Care has to be taken for such debit notes, and the proper configuration is to be done in the ERP / accounting software else it can unnecessarily lead to the pre-payment of taxes and could result in more stress on working capital.

### Change in rate of tax in respect of Supply of Goods or Services

Change of rates for goods and service is a normal feature as the rates are reduced on the basis of the representation of the trade and industry or increased by the Government as they wanted to increase the revenue for meeting the economic development and social welfare schemes. Whenever there is an increase in the tax rates, if the supply and payments are received after the tax rate changes there will be no impact but in cases if the goods are shipped and tax invoice is not issued or payment is received and supply has not taken, in such cases what taxes should be applicable, the revised rates or the old rates. This is always a point of difference between the taxmen and the trade and industry, to end all such disputes or differences the same is given under the Act.

The tax rate changes can happen in the following cases

- Goods and Services have been supplied before the tax rate changes
- Goods and Services have been supplied after the tax rate changes

### Goods and Services have been supplied before the tax rate changes

The following are the case under which the goods or services have been supplied but the taxes have changes subsequently before the issue of the tax invoice or receipt of payment.

- where the invoice for the same has been issued and the payment is also received after the change in the rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
- where the invoice has been issued prior to the change in the rate of tax but payment is received after the change in the rate of tax, the time of supply shall be the date of issue of invoice; or
- where the payment has been received before the change in the rate of tax, but the invoice for the same is issued after the change in the rate of tax, the time of supply shall be the date of receipt of payment;

The same is given in an illustration here

Sl. No	Date of change in Tax Rate	Date of Supply of Goods	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	1-Jan-18	25-Dec-17	20-Jan-18	25-Jan-18	20-Jan-18
2	1-Jan-18	25-Dec-17	24-Dec-17	25-Jan-18	24-Dec-17
2	1-Jan-18	25-Dec-17	20-Jan-18	10-Dec-17	10-Dec-17

***Goods and Services have been supplied after the tax rate changes***

The following are the case under which the goods or services have been supplied after that the tax rates have changed

Sl. No	Date of change in Tax Rate	Date of Supply of Goods	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	1-Jan-18	10-Jan-18	24-Dec-17	25-Jan-18	25-Jan-18
2	1-Jan-18	10-Jan-18	20-Dec-17	25-Dec-17	20-Dec-17
3	1-Jan-18	10-Jan-18	15-Dec-17	26-Dec-17	15-Dec-17
4	1-Jan-18	10-Jan-18	20-Jan-18	10-Dec-17	20-Jan-18

The time of supply is very key and determinantal for the accounting of the tax liability and in case if the same is not accounted properly, during the audit or in some cases in Special Audit these issues will be raised and necessary penal action will be initiated on the tax payers. Proper care and internal controls are place to ensure that the provisions of the Time of Supply are adhered in case of services as it is applicable now and in case of historic transactions till the release of the Notification No. 40/2017 – Central Tax dated 13<sup>th</sup> Oct 2017 and Notification No. 66/2017 – Central Tax, dated 15th November, 2017 as the department can cross verify the bank receipts with the actual receipts accounted in the books and validate if GST on advance receipts is paid or not. In case if it is found to be not paid, then interest at the rate of 18% is applicable basis of the Notification No. 13/2017 – Central Tax, dated 28th June, 2017 till the date of payment of the tax.

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## ADVANCE RULING MECHANISM – TOOL FOR DISPUTE RESOLUTION UNDER GST

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**A**dvance rulings enable the tax payers to get an insight into tax consequences of contemplated transactions so that corrective actions may be taken expeditiously. The concept of Advance ruling evolved with the opening of Indian economy through liberalization. In the initial stages the concept of Advance ruling was introduced by the Indian government for Non residents / Foreign companies to have clarity on their tax implications in India for Central / Federal taxes. This concept was extended to Central excise and customs vide Finance act 1999 and to service tax vide finance act 2003. VAT act adopted by various states also had some sort of an advance ruling mechanism typically referred to as "Determination of Disputed questions (DDQ's) under relevant VAT statutes.

While it is debatable as to whether the authority for Advance ruling (AAR) under the erstwhile indirect tax laws served its purpose, the Government of India has emphasized that AARs under the GST law will be important to clarify the doubt of the tax payers in a timely and expeditious manner in the new Indirect tax regime.

For advance rulings separate provisions have been prescribed from Section 95 to Section 106 under Chapter XVII of the CGST act 2017 and in IGST vide section 20 under chapter IX of the IGST act 2017 and similar provisions in respective State GST act 2017. Further Rules along with formats have also been prescribed containing, inter alia, 5 Rules (Rule 103 to Rule 107) and 3 formats (From Form GST ARA-1 to Form GST ARA -03) under Chapter XII: Advance ruling of CGST Rules 2017.

### **Advance Ruling – Meaning**

Advance ruling in GST means a written interpretation of the GST laws provided by the Authority/Appellate authority of Advance ruling (AAR/AAAR) as the case may be in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

Section 96 of the CGST act envisages the constitution of the Authority of Advance ruling through the State Goods and Service tax act or Union territory goods and Service tax act and specifies that such State /Union territory

AARs shall be deemed to be the Authority for Advance ruling in respect to that particular state.

Thus there is a significant departure in the advance ruling mechanism in GST where there will be state specific ruling under one State GST law which would not be binding on another State AAR whereas in earlier regime there was one centralized AAR for Federal/Central taxes and State Specific AAR for VAT.

The authority for Advance ruling shall comprise of one member from amongst the officer of the Central tax and one member from amongst the member of the State Tax or union territory tax to be appointed by the Central government and the State government. The appellate authority shall comprise of the Chief commissioner of central tax as designated by the board and the commissioner of state tax or union territory tax having jurisdiction over the applicant.

### **Advance Ruling – Procedure**

- i) Any registered person or person intending to take registration under the GST Act may apply for advance ruling electronically in form GST ARA -01, stating the question on which advance ruling is sought. Such Application should be accompanied by a fee of Rs 5000/-
- ii) Wide catenas of matter are listed in GST laws on which clarification can be sought through Advance ruling mechanism. It includes the following:-
  - Classification of any goods/services.
  - Applicability of any notification issued having impact on rate of tax.
  - Determination of time and value of supply of goods or services or both
  - Determination of Eligible ITC
  - Determination of liability to pay tax on any goods/ services
  - Whether Applicant liable to be registered
  - Whether anything done in relation to goods or services or both results in supply

**However it is pertinent to note that the AARs do not have the jurisdiction to decide upon Determination of Place of Supply and there by restricting the scope of AARs to decide on matters within the territorial jurisdiction of their state.**

- The authority shall not admit any application where the question raised in the application is already pending or decided in any proceeding in the case of an applicant under any provisions of the GST Act.
- The Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application.
- The concerned officer, jurisdictional officer or an aggrieved applicant may file appeal against advance ruling to the Appellate Authority within 30 days from the date on which the ruling sought to be appealed is communicated. Time period can be extended not exceeding further 30 days on sufficient cause shown.
- In case of appeal against the advance ruling pronouncement by the aggrieved applicant to be submitted in Form GST ARA-02 along with a fee of Rs. 10,000/-. Further, in case of appeal against the advance ruling pronouncement by the concerned officer or jurisdictional officer to be submitted in Form GST ARA-03 and no fee shall be payable.
- The order shall be passed by the Appellate Authority within a period of 90 days from the date of filing appeal.

#### **Miscellaneous Provisions**

**Rectification of advance ruling:** The authority or the Appellate Authority may amend any order passed by it, so as to rectify any error apparent on the face of the record, on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of 6 months from the date of the order.

However, no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

**Who is Bound by the Advance ruling:-** The advance ruling pronounced by the Authority or the Appellate Authority is binding only on

the applicant who had sought the application for advance ruling and on their respective concerned officer or jurisdictional tax authorities, unless there is a change in law, facts, or circumstances supporting the original advance ruling.

**Void nature of Advance ruling:** - Where the Authority or the Appellate Authority finds that the advance ruling has been obtained by the applicant or the appellant, by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and in such case all provisions/rules made under the GST Act shall apply as if such advance ruling had never been sought. Further, the period beginning with the date of such advance ruling and ending with the date of order declaring such ruling to be void-ab-initio to be excluded in computing time period for issuing notice and order in non-fraud and fraud case as envisaged under section 73 and 74 of CGST acts.

**Conclusion:** The definition of Advance ruling under the GST regime is a broad one and an improvement over the erstwhile regime. In pre GST era advance ruling can be given only for proposed transaction whereas under GST as confirmed by Government vide their E flier Advance ruling can be obtained also on Transactions already undertaken. However the main catch lies in the fact that assessee's operating in multiple states may get different rulings for the same transactions and thereby accumulating GST litigation matters at various stages of judicial machinery which will be unsupportive of government theme of " Good and Simple Tax"

Last but not the least in the absence of any provisions of Settlement commission under GST laws the Advance ruling mechanism has became more important for dispute resolution.

# FAQ ON LETTER OF UNDERTAKING

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**SACHIN GANDHI**

M.Com, FCMA, DIT-C-DAC, Pune

## 1. Who has to furnish a Letter of Undertaking?

Any registered person availing the option to supply goods or services for export without payment of integrated tax has to furnish, prior to export, a bond or a Letter of Undertaking (LUT), binding himself to pay the tax due along with the interest in the event of failure to export the goods or services.

## 2. How to file LUT?

Access the GST portal and login using valid credentials. Navigate to Services and to User Services. Under User Services click on the link "Furnish Letter of Undertaking".

## 3. What is to be filled in LUT?

GSTIN and Name (Legal Name) of the Taxpayer would get prefilled based on login. Taxpayer needs to select the financial for which LUT is being filed, enter the name, address and occupation of two witnesses. Taxpayer also needs to select all the points of self-declaration before submitting the LUT.

## 4. What if I have already furnished a LUT and also got approval for it?

If taxpayer has any LUT which he has already furnished and got approval for current Financial Year, then he can upload that LUT and file this application for furnishing LUT to seek the online approval for that previous LUT.

## 5. Is there any limitation regarding the upload of previous LUT?

Only one previous LUT document not exceeding 2 MB in size can be uploaded.

## 6. Can I save the application during the process of submission?

Taxpayer will have the facility to save the application at any stage for 15 days. Saved application can be retrieved from Dashboard > Services > User Services > My Saved Applications.

## 7. Can I preview the application?

Before signing and filing the application, taxpayer would have an option to Preview the application and save in PDF format.

## 8. Who has to sign the application?

Any of the Authorized Signatory needs to sign and file the verification with DSC/EVC

## 9. How would I know that the process of furnishing LUT has been completed?

After successful submission, system will generate ARN and acknowledgement. Taxpayer would be able to download the acknowledgement as PDF.

## 10. Can I view my submission after filing?

Taxpayer would be able to see his ARN under the Services > User Services > View My Submitted LUTs.

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## GOODS AND SERVICES TAX

### CIRCULARS & ORDERS

**Circular No. 33/07/2018 – Central Tax**  
**Dated: 23<sup>rd</sup> February, 2018**

CBEC has issued this Circular regarding non-utilization of blocked and disputed transitional credit taken in terms of Section 140 of the CGST Act, 2017.

**Non-utilization of Disputed Credit carried forward:** If any show cause notice was issued under Rule 14 of Cenvat Credit Rules, 2004 which has been adjudicated vide last Order-in-Original (“OIO”) or Order-in-Appeal (“OIA”) which existed on July 1, 2017, holding the disputed credit as inadmissible, then such Cenvat Credit credited to E-Credit ledger, shall not be utilized by the registered person for discharging his tax liability till such OIO or OIA is in existence. If such disputed credit is utilized, it shall be recovered from the tax payer, with interest and penalty as per the provisions of the CGST Act, 2017.

**Non-transition of Blocked Credit:** As per Section 140(1)(i) of the CGST Act, 2017, registered person shall not carry forward in his E-Credit ledger such credit which is not eligible under Section 17(5) of CGST Act, 2017 (containing Negative List of GST ITC). Where such blocked credit is carried forward in E-Credit ledger, then the same shall not be utilized by the registered person for discharging the tax liability in GST. The amount of blocked credit shall be recovered from the tax payer, with interest and penalty as per the provisions of the CGST Act, 2017.

**Undertaking in case of disputed/ blocked credit amount exceeding Rs. 10 Lakhs** – In all cases. where such disputed Cenvat Credit and Blocked credit is higher than Rs. 10 Lakhs, the taxpayer shall submit an undertaking to the jurisdictional officer of the Central Government that such credit shall not be utilized or has not been availed as transitional credit, as the case may be.

**Circular No. 34/8/2018-GST**  
**Dated 1st March, 2018**

**Subject: Clarifications regarding GST in respect of certain services**

S. No.	Issue	Clarification
1	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.
2	Whether retreading of tyres is a supply of goods or services?	In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)
3	Whether Priority Sector	In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be

	Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT. In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.
4	1. Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST? 2. Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?	1. Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017- CT (R), Sl. No. 25. The other services such as, - i) Application fee for releasing connection of electricity; ii) Rental Charges against metering equipment; iii) Testing fee for meters/ transformers, capacitors etc.; iv) Labour charges from customers for shifting of meters or shifting of service lines; v) charges for duplicate bill; provided by DISCOMS to consumer are taxable 2. The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable.

### CUSTOMS

#### TARIFF

**Notification No. 27/2018-Customs**  
**Dated: 23<sup>rd</sup> February, 2018**

The Central Government has amended the Notification No. 50/2017-Customs, dated the 30th June, 2017 for the public interest. In this notification, in the Table, for S.No. 377 and the entries relating thereto, the following S.No. and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"377	73	All goods [other than screw (7318 15 00) and SIM socket / Other Mechanical items (Metal) (7326 90 99) for cellular mobile phone]	10%	-	-"

**Notification No. 28 /2018 – Customs  
Dated: 1st March, 2018**

CBEC seeks to increase BCD tariff rate on Chickpeas [Tariff item 0713 20 0] from 40% to 60% by invoking section 8A (1) of the Customs Tariff Act, 1975.

**Notification No. 29/2018-Customs  
Dated: 1st March, 2018**

Central Government has amended the Notification No. 27/2018-Customs, dated 23rd February, 2018. In the said notification, in the Table,-

- (i) Against S. No. 20, for the entry in column (3), the entry "Pulses [other than Peas (Pisum sativum), Tur, Chickpeas or Masoor (Lentils)]" shall be substituted;
- (ii) After S. No. 21 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"21 A.	0713 20 00	Kabuli Chana	40%	-	-";

- (iii) against serial number 57, in column (4) against clauses (A), (B) and (C) of item II of column (3), for the entry "30%" the entry "44%" shall be substituted;
- (iv) against serial number 65, in column (4), for the entry "40%" the entry "54%" shall be substituted;
- (v) SL. No. 473 and the entries relating thereto shall be omitted.

**NON TARIFF**

**Notification No. 12/2018-Customs (N.T)  
Dated: 15<sup>th</sup> February, 2018**

This Notification is related to the amended Notification No. 10/2018-Customs (N.T.), dated the 31st January, 2018. In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

**TABLE-1**

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	681
2	1511 90 10	RBD Palm Oil	686
3	1511 90 90	Others – Palm Oil	684
4	1511 10 00	Crude Palmolein	695
5	1511 90 20	RBD Palmolein	698
6	1511 90 90	Others – Palmolein	697
7	1507 10 00	Crude Soya bean Oil	831
8	7404 00 22	Brass Scrap (all grades)	3938
9	1207 91 00	Poppy seeds	2485

**TABLE-2**

Sl. No.	Chapter/ heading/ sub-heading / tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	430 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	534 per kilogram

**TABLE-3**

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	3948"

**Notification No. 13/2018-Customs (N.T)  
Dated: 15th February, 2018**

New notification no.13/2018 – Customs (N.T) dated 15th February 2018 after amendment of provisions of notification no. 11/2018 – Customs(N.T)dated 1ST February 2018 is that the Central Board of Excise and Customs 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 16th February, 2018, 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.

**SCHEDULE-I**

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(a)	(b)
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	51.70	49.90
2	Bahrain Dinar	175.50	164.25
3	Canadian Dollar	52.05	50.45
4	Chinese Yuan	10.25	9.90
5	Danish Kroner	10.90	10.50
6	EURO	81.05	78.30
7	Hong Kong Dollar	8.30	8.05
8	Kuwait Dinar	220.85	206.20
9	New Zealand Dollar	48.15	46.25
10	Norwegian Kroner	8.35	8.05
11	Pound Sterling	91.10	88.10
12	Qatari Riyal	18.15	17.15
13	Saudi Arabian Riyal	17.65	16.50
14	Singapore Dollar	49.50	47.95
15	South African Rand	5.65	5.25
16	Swedish Kroner	8.20	7.90

17	Swiss Franc	70.10	67.75
18	UAE Dirham	18.00	16.85
19	US Dollar	64.85	63.15

**SCHEDULE-II**

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1	Japanese Yen	61.05	58.95
2	Kenyan Shilling	64.90	60.65

**Notification No. 14/2018-Customs (N.T)  
Dated: 19<sup>th</sup> February, 2018**

This Notification is related to amendment of Notification No.55/2011-Customs(N.T.), dated 1st August, 2011 .Central Government has made amendment of the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Rules, 2011, namely:-

1. (a) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Amendment Rules, 2018.

(b) They shall come into force on the 1st day of March, 2018.

2. In the Customs Tariff Rules, 2011, in Appendix-A to Annexure-

2, the words "twelve months" shall be substituted for the words "nine months".

**Notification No. 1/2018-Customs (N.T./CAA/DRI)  
Dated: 23rd February, 2018**

This notification is amendment of Notification No. 133/2015-Customs (N.T.), dated 30th November 2015. In this notification it is specified the officers appointed by the Director General, Revenue Intelligence, mentioned in column (5) of the Table below to act as a common adjudicating authority to exercise the powers and discharge the duties conferred or imposed on officers mentioned in column (4) of the said Table in respect of notices mentioned in column (2) of the said Table for the purpose of adjudication of show cause notices mentioned in column (3) of the said Table, namely:-

Sl. No.	Name of Notice (s) and Address	Show Cause Notice Number and Date	Name of Adjudicating Authorities	Common Adjudicating Authority appointed
(1)	(2)	(3)	(4)	(5)
1.	M/s Kyani Worldwide Pvt. Ltd., Head Office: 1003, 10th Floor, Venue Atlantis, Anandnagar Road, Ahmedabad-380018 and M/s Kyani	F. No. DRI/A ZU/CI/Enq-47 (Int-30/15)/2015 dated 21.11.2017	Principal Commissioner/ Commissioner of Customs, Ahmadabad. Principal Commissioner/ Commissioner of Customs (III), Air Cargo Complex (Import), Mumbai Zone-III, Mumbai.	Principal Commissioner/ Commissioner of Customs (III), Air Cargo Complex (Import), Mumbai Zone-III, Mumbai.

	Worldwide Pvt. Ltd., Registered Office: 330, Star Chamber, 3 rd Floor, Harihar Chowk, Rajkot-360001 and 11 others.		Principal Commissioner/ Commissioner of Customs (II), Air Special Cargo, Mumbai Zone-III, Mumbai Principal Commissioner/ Commissioner of Customs, Air Cargo Complex (Import), IGI Airport, New Delhi.	
2.	M/s Sri Balaganesan Spinners, S. No. 36/1, 34/1, 36/2, N. Shanmuga sundarapura m, Srivilliputur, Virudhnagar-626125 and 7 others.	F. No. DRI/C ZU/TTN/V III/48/15/Int-1/2016 dated 14.11.2017.	Joint/Additional Commissioner of Customs, Custom House, Tuticorin. Joint/Additional Commissioner of Customs, St. John Inland Container Depot, Tuticorin.	Joint/Add itional Commissi oner of Customs, Custom House, Joint/ Additiona l Commissi oner of Tuticorin
3.	M/s Thandi Flora Pvt. Ltd., 158, Kootturavu Nagar, Roja Street , Dindigul-624005	F. No. DRI/C ZU/MDU/VIII/Enq-1/Int-5/2016 dated 10.11.2017	Joint/Additional Commissioner of Customs (Seaport), Commissionerat e-IV, Custom House, Chennai Joint/Additional Commissioner of Chennai. Customs, Air Cargo, Chennai Joint/Additional Commissioner of Customs, Inland Container Depot, Tuticorin Joint/Additional Commissioner of Customs, Custom House, Tuticorin	Joint/Add itional Commissi oner of Customs (Seaport) , Commissi onerate - IV, Custom House, Chennai.
4.	M/s Golconda Textiles Pvt. Ltd., 1-7-140, Musheerabad , Hyderabad-500048 and Sh. Mahmood Alam Khan, Managing Director, M/s Golconda Textiles Pvt. Ltd., 1-7-140, Musheerabad , Hyderabad-500048.	F. No. DRI/H ZU/26A/Enq9(I nt- Nil)/2015 dated 25.10.2017.	Commissioner of Customs (Import), Chennai-IV, Custom House, Chennai Principal Commissioner of Customs, GST Bhavan, L. B. Stadium Road, Hyderabad.	Principal Commissi oner/ Commissi oner of Customs (Import), Chennai- IV, Custom House, Chennai.

For more details, please click on the below link:-

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csn01-2018.pdf>

**Notification No. 15/2018-Customs (N.T)**  
**Dated: 26<sup>th</sup> February, 2018**

In this Notification CBEC specifies appointment of Common Adjudicating Authority to exercise the powers and discharge duties conferred or imposed on them for the purpose of adjudication of the Show Cause Notice:-

Sl. No	Notice name and address	Show Cause Notice Number and date	Answerable to	Appointed Officer
(1)	(2)	(3)	(4)	(5)
1	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII/CG-25/S & /4/06/PI/Pt. III/20 dated 27.04.2011	Jt. Commissioner, Customs, (Imports) Mumbai	Commissioner of Customs (Imports), New Customs House, Ballard Estate, Mumbai (Zone-I)
2	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII/CG-25/S & D/4/06/PI/Pt. I/Gr. V B/13/S/26-Misc-44/11 Gr-VB/JNCH dated 28.04.2011	Addl. Commissioner, Customs, (Imports) Nhava Sheva, Navi Mumbai.	
3	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII/CG-25/S & D/4/06/PI/Pt. II/outward 10 dated 27.04.2011	Deputy Commissioner of Customs (Imports) Mumbai	
4	M/s Rajas Exims, Tilak Nagar, Jaipur and others	F.No. VIII /CG-25/S & D/04/06/RE /Gr. VB/26/S/26-Misc-45/11 GR-VB/JNCH dated 28.04.2011	Addl. Commr, of Customs (Imports) Jawaharlal Nehru Customs House, Nhava Sheva, Mumbai	
5	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII /CG-25/S & D/04/06/PI/Pt I GRVI/13/S/26-Misc432/20 10-11/Gr.VI/JNCH dated 03.05.2011	Addl. Commr, of Customs (Imports) Jawaharlal Nehru Customs House, Nhava Sheva, Mumbai.	Commissioner of Customs (Imports), New Customs House, Ballard Estate, Mumbai (Zone-I)
6	M/s Rajas Exims, Tilak Nagar, Jaipur and others	F.No. VIII /CG-25/S & D/04/06/RE /Gr. VI/23/S-26/Misc433 /2010-11 GRVI/JNCH dated 03.05.2011	Addl. Commr, of Customs (Imports) Jawaharlal Nehru Customs House, Nhava Sheva	
7	M/s Rajas Exims, Tilak Nagar, Jaipur and others	F.No. VIII /CG-25/S & D/04/06/RE /Gr. IV/20/S-26/Misc-	Addl. Commr, of Customs (Imports) Group IV Jawaharlal	

		16/2011 GR-IV/JNCH dated 04.05.2011	Nehru Customs House, Nhava Sheva.
8	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII /CG-25/S & D/04/06/PI/Pt I/VII B/34/S/26-Misc430/20 10-11/Gr.VI JNCH dated 03.05.2011	Addl. Commr, of Customs (Imports) Jawaharlal Nehru Customs House, 7 B of Group VI Nhava Sheva, Navi Mumbai.
9	M/s Pink International Johri Bazar, Jaipur and others	F.No. VIII /CG-25/S & D/4/06/PI/Pt I/Gr.IV/10/S-26-Misc-05/2011/Gr. IV JNCH dated 04.05.2011	Addl. Commr, of Customs (Imports) Jawaharlal Nehru Customs House, Group IV, Jawahar Customs, Nhava Sheva, Navi Mumbai.

**Notification No. 16/2018-Customs (N.T)**  
**Dated: 26<sup>th</sup> February, 2018**

In this Notification CBEC specifies appointment of Common Adjudicating Authority to exercise the powers and discharge duties conferred or imposed on them for the purpose of adjudication of the Show Cause Notice:-

Sl. No	Notice name and address	Show Cause Notice Number and date	Answerable to	Appointed Officer
(1)	(2)	(3)	(4)	(5)
1	M/s Navshakti Industries Pvt. Ltd., 980-81/4, 1st Floor, Makki Market, Chawari Bazar, Delhi-06	F.No VIII/10/ICD /TKD/Prev. /2 /97 dated 23.07.2002	Commissioner of Customs ICD, Tughlakabad, New Delhi	Commissioner of Customs (Imports), New Customs House, Ballard Estate, Mumbai (Zone-I)

**Notification No. 17 /2018 - Customs (N.T.)**  
**Dated: 28<sup>th</sup> February, 2018**

This notification is regarding exemption to some of the goods when imported into India from so much of Custom Duty paid in excess of the Standard Rate. Below mentioned is the table including some of the items.

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	687
2	1511 90 10	RBD Palm Oil	697
3	1511 90 90	Others – Palm Oil	692
4	1511 10 00	Crude Palmolein	705
5	1207 91 00	Poppy seeds	2485

For the entire list, please visit –

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt17-2018.pdf;jsessionid=C78961423E85405B7ADBA547452694C3>

**Notification No. 18 /2018 - Customs (N.T.)**  
**Dated: 1st March, 2018**

In exercise of the powers conferred by section 14 of the Customs Act, 1962, and in supersession of the notification of the Central Board of Excise and Customs No.13/2018-CUSTOMS (N.T.), dated 15th February, 2018 except as respects things done or omitted to be done before such supersession, CBEC determines that the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa & it will be effective from 2nd March, 2018, relating to imported and export goods.

**SCHEDULE-I**

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	51.40	49.60
2	Bahrain Dinar	178.85	167.45
3	Canadian Dollar	51.65	50.00
4	Chinese Yuan	10.45	10.10
5	Danish Kroner	10.90	10.50
6	EURO	80.95	78.25
7	Hong Kong Dollar	8.45	8.20
8	Kuwait Dinar	225.20	210.55
9	New Zealand Dollar	47.90	46.05
10	Norwegian Kroner	8.40	8.10
11	Pound Sterling	91.20	88.25
12	Qatari Riyal	18.50	17.35
13	Saudi Arabian Riyal	18.00	16.85
14	Singapore Dollar	50.05	48.40
15	South African	5.70	5.35

	Rand		
16	Swedish Kroner	8.00	7.70
17	Swiss Franc	70.30	67.80
18	UAE Dirham	18.35	17.20
19	US Dollar	66.10	64.40

**SCHEDULE-II**

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1	Japanese Yen	62.15	60.05
2	Kenyan Shilling	64.90	60.65

**Notification No. 2/2018-Customs (N.T./CAA/DRI)**  
**Dated: 23rd February, 2018**

This notification is amendment of Notification No. 8/2017-Customs (N.T./CAA/DRI) dated 11th August 2017. In the Table to the said notification, against serial number 3, in column 5 for the existing entry, "Additional Director General (Adjudication), Directorate of Revenue Intelligence, Mumbai" shall be substituted.



## ANTI-DUMPING DUTY

### Notification No. 4/2018-Customs (ADD)

Dated: 21<sup>st</sup> February, 2018

This notification seeks to impose anti-dumping duty on Ceramic Tableware and Kitchenware, excluding knives and toilet items, originating in or exported from China PR. The rate of Anti-Dumping duty imposed by the Central Government on the subject goods, imported into India, is specified said Table:-

Sl. No.	Heading	Description of Goods	Specification	Country of origin	Country of export	Producer	Exporter	Amount (in USD)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	6911 and 6912	Ceramic Table wares and Kitchen wares	Any	China PR	China PR	Any	Any	1.04	KG
2	6911 and 6912	Ceramic Table wares and Kitchen wares	Any	China PR China P	Any	Any	Any	1.04	KG
3	6911 and 6912	Ceramic Table wares and Kitchen wares	Any	Any	China PR	Any	Any	1.04	KG

The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the aforesaid date of imposition of the provisional anti-dumping duty, that is, the 12th June, 2017 and shall be payable in Indian currency. Provided that the said anti-dumping, duty shall not be levied for the period commencing from the date of the lapse of the provisional anti-dumping duty, that is, the 11th December, 2017 up to the preceding day of the publication of this notification in the Official Gazette.

### Notification No. 5/2018-Customs (ADD)

Dated: 23rd February, 2018

No Anti dumping duty on import of on imports of Toluene Di-Isocyanate (TDI) originating in or exported from China PR, Japan and Korea RP for the period commencing from the date of the lapse of the provisional anti-dumping duty, that is, the 5th December, 2017 to 22nd January, 2018.

## CIRCULARS

### Circular No. 05/2018-Customs

Dated: 23rd February, 2018

CBEC vide Circular No. 05/2018-Customs dated 23rd February, 2018, recognising that invoice mis-match has been the major reason why the IGST refunds have been held, has provided an alternative mechanism to give exporters an opportunity to rectify such errors committed in the initial stages.

The said alternative mechanism envisages an officer interface on the Customs EDI System through which a Customs officer can verify the information furnished in GSTN and Customs EDI system and sanction refund in those cases where invoice details provided in GSTR 1/ Table 6A are correct though the said details provided in the shipping bill were at variance.

Refund claims would be processed in only those cases where the error code is mentioned as SB005. Further, all refunds shall continue to be credited electronically through the PFMS system, and no manual payment / cheque should be issued. To know the procedure of IGST refund claims, please click on the below link:

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2018/circ05-2018cs.pdf>

## CENTRAL EXCISE

### TARIFF

### Notification No. 17/2018-Central Excise

Dated: 23rd February, 2018

Central Government considers the notification No. 1/2018-Central Excise, dated the 2nd February, 2018, shall not apply to the goods manufactured on or before the 1st February, 2018 and cleared on or after the 2nd February, 2018.

### Notification No. 18/2018-Central Excise

Dated: 23rd February, 2018

Central Government considers the notification No. 2/2018-Central Excise, dated the 2nd February, 2018, shall not apply to the goods manufactured on or before the 1st February, 2018 and cleared on or after the 2nd February, 2018

## CIRCULARS

### Circular No. 1063/02/2018-CX

Dated: 16th February, 2018

The Central Board of Excise and Customs (CBEC) has issued circular in relation to indirect taxes on the subject 'Orders of Supreme Court, High Courts and CESTAT accepted by the Department and on which no review petitions, SLPs have been filed'. The Department has decided not to file any review petitions and SLPs against such orders to reduce litigations so that cases on similar questions of law or identical case on facts, pending in the field, can be expeditiously decided.

The circular has two parts, namely Part I (comprises of the orders of various high courts in which points of law have been decided) and Part II (comprises orders which have been decided on facts or have been dismissed on monetary limits).All the

orders have been accepted by the department and against them no SLP, etc. has been preferred in the Supreme Court. For more details, please follow the link:-

<http://www.cbec.gov.in/resources/htdocs-cbec/excise/cx-circulars/cx-circulars-2018/circ1063-2018cx.pdf>

**Circular No. 1064/03/2018-CX**  
**Dated: 26th February, 2018**

This circular is related to consideration of mega power policy benefits in proportion to the long term PPA tied up in case of provisional mega power projects.

Certain specified goods such as machinery, apparatus, instruments, cables, components or raw material supplied to specified mega power projects, including the projects with provisional mega power status, were exempted from central excise duty vide notification No. 12/2012-Central Excise, dated the 17th March, 2012 subject to furnishing of a security [in the form of a Fixed Deposit Receipt or Bank Guarantee from any scheduled bank for a term of 126 months] for an amount equal to the central excise duty payable but for the said exemption. The notification provided for release of security on furnishing of final mega power status certificate.

However, with advent of GST, notification No. 12/2012-Central Excise, dated the 17th March, 2012 has been superseded vide notification No. 11/2017-Central Excise, dated the 30th June, 2017.

In the case of provisional mega power projects, the security in the form of Fixed Deposit Receipt or Bank Guarantee lying with the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, with regard to aforesaid central excise duty exemption, may be released proportionately as per the proportionate mega certificate [Mega Power Certificate (Proportional)] issued by the Joint Secretary to the Government of India in the Ministry of Power, Government of India.

## **INCOME TAX**

**Notification No. 6/2018- (F.No. 225/61/2018-ITAI)**  
**Dated: 12<sup>th</sup> February, 2018**

The Central Government, specifies Chief Executive Officer as Government e Marketplace (GeM) under section 138(1)(a) of Income tax Act, 1961 to notify Principal Director General of Income-tax (Systems) as the 'designated authority' for furnishing information to the authority.

Following information regarding entities seeking registration with GeM as sellers shall be furnished:

- i. Pan data in respect of seller
- ii. Latest available three years' Balance Sheet of the sellers
- iii. Key Director's details related to the sellers
- iv. Any further information considered necessary for verification of antecedents of the sellers (to be decided on basis of mutual consultation between Pro DGIT [Systems] & GeM)

Information shared under section 138 by the Income-tax Department with GeM shall be used only for its internal purposes & not shared/passed on to other institution/agency.

**Notification No. 8 /2018/F.No.196/38/2015-ITA-I)**  
**Dated: 16th February, 2018.**

The Central Government notifies the 'Maharashtra Electricity Regulatory Commission', a Commission constituted by the State Government of Maharashtra, in respect of the following specified income arising to that Commission, namely:-

1. Fees for Annual License;
2. Interest on Fixed Deposit and Savings Account;
3. Fees for Application / Petition filed;
4. Grants from Government of Maharashtra
5. Fees for Documents;
6. Penalty for delayed payment of Annual License Fees;
7. Fees for RTI
8. Sale of scrap.

This notification shall be deemed to have been applied for the period 01.06.2011 to 31.03.2012 and for the financial years 2012-13 to 2014-15. 3.

This Notification shall be effective subject to the following conditions, namely:-

- (a) the 'Maharashtra Electricity Regulatory Commission' does not engage in any commercial activity;
- (b) the activities and the nature of the specified income of 'Maharashtra Electricity Regulatory Commission' remain unchanged throughout the financial years;
- (c) The 'Maharashtra Electricity Regulatory Commission' files returns of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Act, Income-tax Act, 1961.

**Notification No. 9 /2018, /F.No.178/29/2017-ITA-I)**  
**Dated: 16th February, 2018**

Central Government notifies the Contributory Health Service Scheme of the Department of Atomic Energy for the purposes of the clause clause (a) of sub-section (2) of section 80D of the IT Act 1961 for the assessment year 2018-2019 and subsequent years.

**Notification No. 10/2018/F. No. 370142/14/2017-TPL**  
**Dated: 19th February, 2018**

In exercise of the powers conferred by clause (aa) and clause (ab) of sub-section (1) of section 12A read with section 295 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:

1. These rules may be called the Income-tax (First Amendment) Rules, 2018 & shall come into force from the date of its publication in the Official Gazette.
2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules), in Part IV, for 'rule 17A', the following rule shall be substituted, namely: "Application for registration of charitable or religious trusts, etc.

17A (1). An application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No. 10A and accompanied by the following documents, namely:

(a) where the trust is created, or the institution is established, under an instrument, self-certified copy of the instrument creating the trust or establishing the institution;

(b) where the trust is created, or the institution is established, otherwise than under an instrument, self-certified copy of the document evidencing the creation of the trust, or establishment of the institution;

(c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;

(d) self-certified copy of the documents evidencing adoption or modification of the objects, if any;

(e) where the trust or institution has been in existence during any year or years prior to the financial year in which the application for registration is made, self certified copies of the annual accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;

(f) note on the activities of the trust or institution;

(g) self-certified copy of existing order granting registration under section 12A or section 12AA, as the case may be; and

(h) self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA, as the case may be, if any.

(2) Form No. 10A shall be furnished electronically, ---

(i) under digital signature, if the return of income is required to be furnished under digital signature;

(ii) through electronic verification code in a case not covered under clause (i).

(3) Form No. 10A shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the assessee.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify the data structure, standards and procedure of furnishing and verification of Form No. 10A and be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished.”.

3. In the principal rules, in Appendix II, for the ‘Form No. 10A’, the following Form shall be substituted, namely:-

For more details, please click on the below link:-  
[https://www.incometaxindia.gov.in/communications/notification/n/notification\\_10\\_2018.pdf](https://www.incometaxindia.gov.in/communications/notification/n/notification_10_2018.pdf)

**Notification No. 11/2018 [F. No.503/01/2005/FTD-II]SO 731 (E)**  
**Dated: 19<sup>th</sup> February, 2018**

This notification is related agreement between the Government of the Republic of India and the Government of the Republic of Kenya for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes. It consists 32 articles.

Article 1-PERSONS COVERED  
Article 2-TAXES COVERED

Article 3-GENERAL DEFINITIONS  
Article 4-RESIDENT  
Article 5-PERMANENT ESTABLISHMENT  
Article 6-INCOME FROM IMMOVABLE PROPERTY  
Article 7-BUSINESS PROFITS  
Article 7-BUSINESS PROFITS  
Article 8-SHIPPING AND AIR TRANSPORT  
Article 9-ASSOCIATED ENTERPRISES  
Article 10-DIVIDENDS  
Article 11-INTEREST  
Article 12-ROYALTIES  
Article 13-FEES FOR MANAGEMENT, PROFESSIONAL AND TECHNICAL SERVICES  
Article 14-CAPITAL GAINS  
Article 15-INDEPENDENT PERSONAL SERVICES  
Article 16-DEPENDENT PERSONAL SERVICES  
Article 17-DIRECTORS' FEES  
Article 18-ARTISTES AND SPORTSPERSONS  
Article 19-PENSIONS  
Article 20-GOVERNMENT SERVICE  
Article 21-PROFESSORS, TEACHERS AND RESEARCH SCHOLARS  
Article 22-STUDENTS  
Article 23-OTHER INCOME  
Article 24-METHODS FOR ELIMINATION OF DOUBLE TAXATION  
Article 25-NON-DISCRIMINATION  
Article 26-MUTUAL AGREEMENT PROCEDURE  
Article 27-EXCHANGE OF INFORMATION  
Article 28-ASSISTANCE IN THE COLLECTION OF TAXES  
Article 29-LIMITATION OF BENEFITS  
Article 30-MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS  
Article 31-ENTRY INTO FORCE  
Article 32-TERMINATION

To know more, please click on the below link:-

[https://www.incometaxindia.gov.in/communications/notification/n/notification11\\_2018.pdf](https://www.incometaxindia.gov.in/communications/notification/n/notification11_2018.pdf)

**Notification No. 12/2018/F. No. 370142/22/2017-TPL**  
**Dated: 22nd February, 2018**

In exercise of powers conferred by sub-section (3) of section 133C of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following scheme for centralised issuance of notice, namely:—

#### **Short title and commencement-**

(1) This scheme may be called the Centralised Communication Scheme, 2018.

#### **Definitions.-**

(1) In this scheme, unless the context otherwise requires,—

(a) “Act” means the Income-tax Act, 1961 (43 of 1961);

(b) “Director General” means the Director General of Income-tax appointed under sub-section (1) of section 117 of the Act and authorised by the Board in this behalf;

(c) “Principal Director General” means the Principal Director General of Income-tax appointed under subsection (1) of section 117 of the Act and authorised by the Board in this behalf;

(d) “Designated authority” means the income-tax authority prescribed under sub-section (1) of Section 133C of the Act who is in charge of the Centralised Communication Centre;

(e) "Portal" means the web portal of the Centralised Communication Centre.

(2) The words and expressions used herein but not defined and defined in the Act shall have the meaning respectively assigned to them in the Act.

### 3. Issue and service of notice-

(1) The Centralised Communication Centre shall issue notice to any person requiring him to furnish information or documents for the purpose of verification of information in his possession.

(2) The notice shall be issued under digital signature of the designated authority.

(3) The notice shall be served by delivering a copy by electronic mail, or by placing a copy in the registered account on the portal followed by intimation by Short Message Service.

(4) The information or documents called for under subparagraph (1) shall be furnished on or before the date specified in the notice as specified in paragraph 4.

(5) The designated authority shall also run sustained campaign to ensure compliance by way of sending electronic mails, Short Message Service, reminders, letters and outbound calls.

### 4. Response to notice-

(1) The Centralised Communication Centre may prescribe a machine readable structured format for furnishing the information or documents by the person in response to the notice issued under subparagraph (1) of paragraph 3.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for furnishing response to the notices.

### 5. No personal appearance-

No person shall be required to appear personally or through authorised representative before the designated authority at the Centralised Communication Centre in connection with any proceedings.

### 6. Power to specify procedure and processes-

(1) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify from time to time, procedures and processes for effective functioning of the Centralised Communication Centre, including the following matters, namely:-

(a) format and procedure for issue of notice;

(b) receipt of any information or document from the addressee in response to notice;

(c) mode and format for issue of acknowledgment of the response furnished by the addressee;

(d) provision of web portal facility including login facility, tracking status of verification, display of relevant details, and facility of download;

(e) call centre to answer queries and provide support services, including outbound calls and inbound calls seeking information or clarification;

(f) managing administration functions such as receipt, scanning, data entry, storage and retrieval of information and documents in a centralised manner;

(g) grievance redressal mechanism in the Centralised Communication Centre.

## CIRCULARS

**Circular No. 2/2018**  
**Dated: 15th February, 2018**

### Finance Act, 2017 – Explanatory Notes to the Provisions of the Finance Act, 2017

Section/ Schedule	Particulars / Paragraph number
	Finance Act, 2017
First Schedule	Rate Structure, 3.1-3.4
Chapter III	Income-tax Act, 1961
2	Consolidation of plans within a scheme of mutual fund, 4.1- 4.3; Tax neutral conversion of preference shares to equity shares, 26.1-26.4; Widening scope of Income from other sources, 33.1-33.6
9	Clarity relating to indirect transfer provisions, 5.1-5.8
9A	Modification in conditions of special taxation regime for off shore funds under section 9A, 6.1-6.5
10	Correct reference to FEMA instead of FERA, 7.1-7.4; Tax exemption to partial withdrawal from National Pension System (NPS), 8.1-8.3; Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, 9.1-9.4; Tax incentive for the development of capital of Andhra Pradesh, 10.1-10.5; Exemption of long term capital gains tax under section 10(38) of the Income-tax Act, 11.1-11.3; Exemption of income of Foreign Company from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement, 12.1-12.3; Restriction on exemption in case of corpus donation by exempt entities to other exempt entities, 14.1-14.6
10AA	Rationalization of provisions of Section 10AA, 13.1-13.4
11	Restriction on exemption in case of corpus donation by exempt entities to other exempt entities, 14.1-14.6
12A	Clarity of procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12, 15.1-15.7
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44AB	Exclusion of certain specified person from requirement of audit of accounts under section 44AB, 23.1-23.3

For more details, please follow the link:-

[https://www.incometaxindia.gov.in/communications/circular/circular2\\_2018.pdf](https://www.incometaxindia.gov.in/communications/circular/circular2_2018.pdf)

**Notification No. 07/2018/F. No. 142/16/2010 (SO)-TPL (Part)**  
**Dated :16<sup>th</sup> February, 2018**

In the notification of the Government of India, Ministry of Finance, Department of Revenue (Central Board of Direct Taxes), dated the 19th January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 44(E), dated the 19th January, 2018, at page 3, in line 19, for “the Institute of Certified Management Accountants of India” read “the Institute of Cost Accountants of India”

# PRESS RELEASE

## INDIRECT TAX

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs**

New Delhi, 16th February, 2018

**Subject: Circular on Orders of Supreme Court, High Courts and CESTAT accepted by the Department and on which no review petitions, SLPs have been filed- reg**

1. Central Board of Excise and Customs has issued circular No. 1063/2/2018-CX dated 16.02.2018 on the subject "Orders of Supreme Court, High Courts and CESTAT accepted by the Department and on which no review petitions, SLPs have been filed", in relation to indirect taxes.

2. The Circular compiles 63 orders which have been accepted by the Department. In fourteen of these orders Hon'ble High Courts have decided various questions of law. In the rest the Hon'ble High Courts have delivered judgments on the basis of some settled case law or have decided points of facts or have dismissed the appeal on monetary grounds. The said orders which have been accepted by the Department have been complied in the Circular so that cases pending in the field can be expeditiously decided, if the questions of law or facts involved are identical.

3. This exercise has been undertaken as an endeavour to reduce litigations so that cases on similar questions of law or identical case on facts pending in the field can be decided.

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs**

March 1, 2018

### **Enforcement Action for Fraud in GST Mumbai**

Officers of CGST Mumbai have arrested two businessmen for creating fictitious invoices and availing ineligible credit. The persons have been arrested for availing input tax credit on the basis of fraudulent invoices against which no actual goods were bought or sold.

2. The power to arrest is provided under section 69 of the CGST Act, 2017 and is to be exercised by the Commissioner in cases of outright fraud where the amount of tax evaded or the amount of input tax credit wrongly availed exceeds Rs. 2 crore.

3. Government wants to assure taxpayers that compliant taxpayers do not run the risk of facing such punitive action in carrying out their day to day operations. The power to arrest is to be exercised where there is deliberate fraud of sizeable magnitude with intent to evade tax. It is meant to serve as a deterrent to unscrupulous elements in trade who may try to defraud the system. There are sufficient checks built into the law to ensure that inadvertent or procedural lapses do not attract severe punitive measures.

## DIRECT TAX

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

New Delhi, 17th February, 2018

### **Signing of DTAA by India and Iran on 17th February, 2018**

India and Iran signed an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income, today at New Delhi. The Agreement is on similar lines as entered into by India with other countries. The Agreement will stimulate flow of investment, technology and personnel from India to Iran & vice versa, and will prevent double taxation. The Agreement will provide for exchange of information between the two Contracting Parties as per latest international standards. It will improve transparency in tax matters and will help curb tax evasion and tax avoidance. The Agreement also meets treaty related minimum standards under G20 OECD Base Erosion & Profit Shifting (BEPS) Project, in which India participated on an equal footing.

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

New Delhi, 22nd February, 2018

### **Revised Double Taxation Avoidance Agreement (DTAA) between India and Kenya notified**

The Double Taxation Avoidance Agreement (DTAA) between India and Kenya was signed and notified in 1985. Subsequently, the DTAA was renegotiated and a revised DTAA was signed between both countries on 11th July, 2016. The revised DTAA has been notified in the Official Gazette on 19th February, 2018. Some of the key features of the revised DTAA are highlighted as under:

- i. In order to promote cross border flow of investments and technology, the revised DTAA provides for reduction in withholding tax rates from 15% to 10% on dividends, from 15% to 10% on interest, from 20% to 10% on royalties and from 17.5% to 10% on fees for management, professional and technical services.
- ii. The revised DTAA provides for a new Article on Limitation of Benefits to allow treaty benefits to bonafide residents of both countries, to combat treaty abuse by third country residents and to allow application of domestic law to prevent tax avoidance or evasion.
- iii. The Article on Exchange of Information has been updated to the latest international standard to provide for exchange of information, including banking information for tax purposes, to the widest possible extent.

- iv. A new Article on Assistance in Collection of Taxes has also been provided in the revised treaty which will enable assistance in collection of tax revenue claims between both countries.

The revised DTAA will improve transparency in tax matters, help curb tax evasion and tax avoidance, remove double taxation and will stimulate the flow of investment, technology and services between India and Kenya.

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**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

New Delhi, 1st March, 2018

**CBDT achieves important milestone of 200 APAs!**

The Central Board of Direct Taxes (CBDT) entered into seven more Advance Pricing Agreements (APAs) during the month of February, 2018. All the seven are Unilateral APAs. With the signing of these Agreements, the CBDT has crossed the important milestone of having signed 200 APAs.

The total number of APAs entered into by the CBDT till date has gone up to 203. This includes 185 Unilateral APAs and 18 Bilateral APAs. In the current financial year, the CBDT has entered into 51 APAs so far (44 Unilateral APAs and 7 Bilateral APAs).

The seven APAs signed in February pertain to the Pharmaceuticals, Automobiles, Financial and Food & Beverages sectors of the economy. The international transactions covered in these agreements include Manufacturing, Provision of Software Development Services, Provision of IT enabled Services, Payment of Royalty, Provision of Contract R&D Services, Provision of Marketing Support Services, Distribution, AMP Expenses, Provision of Engineering Design Support Services, Provision of Sourcing Support Services, Payment of Interest, etc. The APA provisions were introduced in the Income-tax Act, 1961 in 2012 and the "Rollback" provisions were introduced in 2014. The APA scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and setting the prices of international transactions in advance.

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner. It has contributed significantly towards improving the ease of doing business in India.

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# JUDGEMENTS

## INDIRECT TAX

### ACCESS PROBLEM IN GST PORTAL DUE TO LACK OF PROPER ADMINISTRATION

**Abicor and Binzel Technoweld Pvt. Ltd vs. UOI (Bombay High Court)**

**Writ Petition (L) NO. 2230 OF 2018**

**Date of pronouncement - February 6, 2018**

#### Fact of the Case

- 1) The petitioner was not able to access its online profile on the Goods & Service Tax Network 2017, though there was neither any fault nor any negligence on the part of the petitioner.
- 2) Without access to the online profile, the petitioner could not generate E-Way bill. As a result no movement of goods was allowed which might be the cause of paralysis to the business.
- 3) Even it became impossible to file return & pay tax. As a result interest liability & imposition of penalty would arise. Neither the petitioner nor the customers was able to avail ITC.
- 4) The Writ Petition was filed in the court & notice issued. After issuing notice, Mr. Jitendra Mishra was instructed to appear for respondent-1.
- 5) After filing Writ Petition, the petitioner was allowed to access online profile on 25th January, 2018 & registration number was granted, but could not file the necessary return without payment of late fee. Beside this the petitioner faced a lot of difficulties as highlighted in the further affidavit filed.

#### Decision of the Case

- 1) It is not the business of the court to grant such access as was claimed by the petitioner.
- 2) GST is a burning topics in Indirect Taxation era. Hopefully proper administration, implementation of law, required mechanism will be provided from the end of the competent authority. The court cannot be called upon to administer the implementation of law in connection with this matter.

### FOOD PREPARATIONS MADE IN RESTAURANTS ARE 'EXCISABLE GOODS'

**M/s Bharat Hotel Limited Appellant vs. CCE (CESTAT)**

**Final Order No. 50618/2018**

**Date of Decision: - 13th February, 2018**

#### Fact of the Case:-

- 1) In the present case the assessee is managing hotels and restaurants & providing rooms for rent and also various food items, cakes, pastries, cookies, confectionery to the customers in their restaurant.
- 2) The main issue in the present case is regarding non-payment of Central excise duty on pastry, cakes, biscuits, cookies, chocolates etc.
- 3) The Revenue held that since the Assessee engaged in preparing variety of food items using meat, vegetables, pulses etc. and these items being exempted from payment of Central excise duty,

while calculating the aggregate value of clearances for SSI exemption, but the Assessee using goods such as pastry, cakes, biscuits, cookies etc. for preparing the food items which did not come under the list of exempted items. Therefore the authority confirmed the Central Excise duty liability of Rs. 6,41,711 and imposed the equal amount of penalty under Section 11AC of the Central Excise Act, 1944.

- 4) On the other hand, the counsel for the Assessee contended that the lower authority made their general observation regarding the products prepared in the kitchen of the Assessee as excisable under various headings and no detailed finding regarding the actual nature of goods classifiable under specific tariff heading and the process of such preparation satisfying the concept of "manufacture" under Central Excise law was recorded. Further, he submitted that food prepared in the hotel kitchen cannot be considered as the manufactured item as they do not have the shelf life and are not marketed as commonly understood. Hence the test of marketability to determine the excisability will not be satisfied by the lower authorities.

#### Decision of the Case:-

- 1) After analyzing the facts and circumstances of the case, the Tribunal observed that "starting point with various ingredients and the ending point with combination of these ingredients involving different duration of preparation requiring heating, boiling and various other processes will certainly result in the new identifiable and marketable prepared food and it is an admitted fact that the duration of shelf life by itself will not decide the marketability or excisability".
- 2) The Tribunal further held that "whether a new, commercially identifiable product emerged after processes undertaken on the raw materials which are distinct from the finished product. therefore, hesitation to hold that the finished products, in the present case are different types of food preparations and are new marketable products and are liable to excise duty subject to due classification as available in the Central Excise Tariff".
- 3) According to decision of CESTAT, food preparations made in restaurants such as pastry, cakes, biscuits, cookies, chocolates etc are excisable goods.

### INABILITY TO FILE GST TRAN-01

**Petition before Delhi HC for GSTN Technical Glitches**

**Petitioner:- M/s Bhargava Motors**

#### Fact of the case

- 1) The petitioner M/S Bhargava Motors were unable to file GST TRAN-01 due to technical glitches in the Goods & Services Tax Network.
- 2) The trader (petitioner) was entitled to a credit of Rs. 7496069 & 10.5lacs as per provision to u/s 140(3) of CGST Act 2017. but due to the legal glitches in the GSTIN common portal, the petitioner became unable to get its due ITC which



caused undue financial hardship to the business and also resulting in non-carry forward of duly admissible credit as on 30th June 2017.

**Decision of the case:-**

- 1) Mechanism of operation of common portal is arbitrator & unreasonable and the assessee had no control over the same. Despite of having acknowledgement receipt, the GSTIN authority is unable to provide ITC to the petitioner.
- 2) Thereby the petitioner is sought for a writ of mandamus and on the basis of which the respondent is directing to allow the petitioner a credit of Rs. 7496069 & other GST credits to which the petitioner is legally entitled as CGST credit.

**NO SERVICE TAX ON CONSIDERATION RECEIVED FOR SALE OF BOOKS AND MATERIALS TO THE FRANCHISE**

**M/s Jetking Infotrain Ltd Vs. CC Delhi (CESTAT)**

**Appeal No. ST/51945/2014**

**Date of decision: 12th February, 2018**

**Fact of the Case:-**

- 1) The Assessee is a public limited company engaged in IT Training in hardware and networking.
- 2) They are registered with service tax department under the category of "Commercial Training or Coaching Service" and "Franchise Services". They are paying service tax for the income earned from the franchise.
- 3) The sole issue raised was appellant claimed an exemption for not paying service tax on the consideration received for sale of books and materials to the franchise.
- 4) Revenue rejected the claim by reasoning that course materials are provided at free of cost from franchiser.
- 5) Advocate on behalf of Assessee while perused the franchise agreement contended that the appellant sells study material to its franchises and the same is a commercial transaction of sale of goods and not service. Accordingly benefit of Notification No.12/203 is available as value equal to the sale of goods and materials by the service provider to the service recipient is exempted.

**Decision of the Bench:-**

- 1) The Tribunal considered that if illegal and unauthorized condition imposed on the generality of exemption granted by the Central Government through Notification No.12/2003-S.T., dated 20.6.2003 is ignored, the assessee/appellant is clearly entitled to the benefit of the exemption.
- 2) The Tribunal also held that the impugned order denying the exemption claimed by the appellant under Notification 12/2003-ST is not legal and sustainable and, as such, the same is set aside and appeal is allowed.
- 3) The New Delhi bench of CESTAT has held that consideration received for sale of Books and materials to the franchise not subject to Service Tax.

**SERVICE TAX ON MAINTENANCE OF PROPERTY**

**CIT vs. Shri Krishna Chaitanya Enterprise (Bombay High Court)**

**Central Excise Appeal No. 289 of 2016**

**Date of pronouncement - January 25, 2018**

**Fact of the Case:-**

- 1) The arguments of the Revenue fail to take note of backdrop & in which it terms the obligations & duties under MOFA to be rendering of taxable service.
- 2) It is clear from the provision of law that the promoter will complete the construction of flats & enter into agreement to sell the flats with the individual flat purchaser with the appropriate stipulation of payment from time to time.
- 3) Unless and until the legal entity is formed by the promoter namely a co-operative housing society taking all the flat owners, the discharge of eventual duty & function is not completed.
- 4) The building & flats therein has to stand intact till all flats or units are sold & the statutory obligations are fully discharged. This is not a service of the nature. The day to day upkeep, maintenance & repair is till the statutory duty is fully performed as noted above.
- 5) It is concerned here with a taxable service. This service of maintenance, management or repair rendered by any person to any other person is a taxable service but in the context and backdrop in which the issue arises, it is considered that a taxable is not rendered.
- 6) The provisions of section 5 & 6 and eventually the further provisions right up to section 13 of the MOFA would make it clear that builder & developer maintains & repairs the property till it is conveyed or the title in the same is conveyed to the flat purchasers or the legal entity which would ultimately be formed by him.
- 7) After formation of the legal entity, the obligation ceases & it is taken over by the cooperative housing society or the company. Until that takes place, the promoter continues to be liable. If this aspect is ignored, then the narrow or restricted construction placed on the provision by the Revenue can be accepted. The tax then can be justified on the ground that it is a taxable service provided by the builder.

**Decision of the Case:-**

Under the MOFA, the builder /developer is under a statutory obligation to look after the day-to-day upkeep, maintenance & repair of the property till conveyance to the co-op society. Such maintenance of the structure is not rendering a taxable service as per section 65(64) of the finance Act, 1994.

**TAX PAYER APPROACHES BOMBAY HC FOR FILING CRIMINAL CASE AGAINST GSTN FOR TAMPERING OF STATUS OF TRAN-1**

**M/s. APL Apollo Tubes Limited vs. Union of India, State of Maharashtra & GSTN (Goods and Service Tax Network)**

**Writ Petition No. \_\_\_\_\_ OF 2018**

**Fact of the Case**

- 1) The Petitioner is a public limited company having its registered office in Delhi – 1100092 and having its industrial unit in Maharashtra and is registered with GST in State of Maharashtra..

- 2) GSTN (Goods and Service Network) is a Private Limited Company which has been assigned the job of running Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns etc. under Section 146 of CGST Act.
- 3) The Petitioner carried forward an amount of Rs 16,94,21,660/- as CENVAT Credit in Central Excise Return for the period ending 30.06.2017 for Central Excise and hence entitled to take the said amount in electronic credit ledger on GST Portal. In addition Petitioner is also entitled to credit on transitional stock.
- 4) It is submitted that in order to avail transition the credit from the previous regime to the GST regime, the Petitioner submitted the TRAN-1 form i.e. the form for claiming transitional credit on 28.8.2017.
- 5) Due to Processing Error at GSTN Portal only part figure of Rs. 4,96,25,703.22/- (Rs.4,94,85,876/- as Central Tax and Rs.1,39,827.22 as State Tax) was credited to the Petitioner's Provisional electronic credit ledger as transitional credit on 28.08.2017.
- 6) On 18.11.2017 the Petitioner was in a position to re-submit TRAN-1 Form on GSTN Portal and re-submitted and Filed TRAN-1. CGST credit of Rs. 20,83,35,848/- was credited to the electronic credit ledger of the Petitioner with regard to transitional credit. Further, the balance figure of Rs. 20,83,35,848/- was credited to the Petitioner's Provisional electronic credit ledger as transitional credit after an inordinate delay on 18.11.2017. The Petitioner received an acknowledgment from the GST Department regarding the filing of the TRAN-1.
- 7) Despite of the Petitioner having filed the TRAN-1 form on 24.11.2017 and the status after filing being "FILED" on GSTN Portal, the status of the form online was tampered on the GST portal from "FILED" to "SUBMITTED" at the end of GSTN which is an unauthorized, illegal, malafide and criminal act by GSTN, a Private Limited Company. As a result Petitioner is unable to file the GSRT-3B returns for the month of July 2017 onwards.

#### **Writ Petition**

- 1) Union of India may be directed to urgently take over GSTN and to replace its top Management in public interest.
- 2) Union of India, State of Maharashtra may be directed to conduct High level enquiry through independent IT Experts (who have no business connection with GSTN) against GSTN for tampering of status of GST TRAN-1.
- 3) Union of India, State of Maharashtra may be directed to file a criminal case of tampering of GST TRAN-1 against GSTN.
- 4) Respondents may be directed to rectify the status of TRAN-1 as "Filed" in GSTN Portal.
- 5) Respondents may be directed to urgently open GSTN Facilitation Centre in Mumbai for resolution of issues being faced in filing of returns & and filing of returns should be allowed without payment of interest and late fees.
- 6) Respondents may be directed to allow set off IGST, CGST & SGST liability for the months of August 2017 onwards without payment of interest and late fees.
- 7) If GST Department demands any interest, penalty or late fees for delayed set off GST liability from

the Petitioner, GSTN may be directed to compensate the said amount to the Petitioner.

- 8) The compensation may be awarded to the Petitioner.

#### **THERE IS NO PROVISION IN CUSTOMS ACT ALLOWING FREEZING A BANK ACCOUNT**

**S. B. International (Petitioner) Vs. The Assiantant Director, Directorate of Revenue Intelligence & Others (Delhi High Court)**

**W.P. (C) 237/2018 & CM No. 1023/201**

**Date of Decision:- 5th February, 2018**

#### **Fact of the Case:-**

- 1) The assessee in the instant case is a sole proprietorship concern.
- 2) During the relevant period, a search was conducted by the Directorate of Revenue Intelligence (DRI) under the Customs Act in the warehouse of the assessee regarding the illegal import of tyres.
- 3) The Assessee was also called upon to produce the bank statements of the concern.
- 4) After analyzing the documents, the DRI concluded that the said statement was recorded under duress and coercion. Accordingly, the DRI passed an order to freeze the bank account of the concern.
- 5) The counsel for the Assessee submitted that the Assessee is not an importer in respect of the transactions being investigated by the DRI and the tyres were imported by another concern and the Assessee used to purchase goods from the Enterprises as he knew the proprietor of the said concern.
- 6) It is also asserted by the counsel that even though the Assessee had assisted the importers in identifying the items of import as well as the source from where the goods could be imported, the petitioner was not an importer and, therefore, cannot be held liable for any irregularity in import of the products in question.
- 7) Assessee sent a letter to the DRI for requesting to de-freeze the bank account maintained by him with Axis Bank.
- 8) However, the DRI refused to accept the submissions of the Assessee and continued with his earlier action.

#### **Decision of the Case:-**

- 1) After considering the rival submissions of both the parties, High Court Justice observed that "Freezing a bank account is not the same as seizing an asset; it interdicts operation of a bank account and it deprives the account holder of banking facilities. Indisputably, there is no sanction in the Customs Act for such action".
- 2) The Court further observed that "DRI was undoubtedly entitled to proceed with the investigation and take appropriate action against the petitioner in accordance with law; however, there was no provision where the DRI could prevent banking operations pending investigations".

Consequently, the Court directed the Officer that freezing of accounts of the Assessee is unsustainable and the same was set aside.

## DIRECT TAX

### ALL APARTMENTS RECEIVED UNDER DEVELOPMENT AGREEMENT WOULD BECOME "ONE HOUSE" FOR THE PURPOSE OF S. 54 EXEMPTION

**Sudhir Naik and others vs. Income Tax Officer, (ITAT Hyderabad)**

**Appeal No. - ITA No. 1463/Hyd/16**

**Order Date - 31-01-2018**

#### Fact of the Case

- 1) An agreement was made between the members of HUF & n/s Sri Sampada Construction & others for construction of flat.
- 2) After completion of construction, the developer handed over 30 flats in Block A & 21 FLATS IN Block B to the members of HUF.
- 3) HUF members sold 24 flats before March 2003 & declared Nil income from Capital Gains & claimed deduction U/S 54/54F.
- 4) The Counsel for the assessee stated that only 5 flats in Block B were sold in the impugned assessment year.
- 5) Hence the capital gain arising from the sale of 5 flats can only be brought to tax in the year under consideration. It is also seen from agreement that all the apartments received in the development agreement would become one house technically.
- 6) Regarding the claim U/S 54F/54, the contention of the assessee is that all these flats were sold. Therefore the assessee did not own any other house except the house in which he had invested.

#### Decision of the Case

- 1) The contention of the assessee was not considered by the A.O
- 2) The learned tribunal bench directed to A.O to reexamine the matter by considering the date of sale of various apartments & claim of assessee U/S 54F. the tribunal bench also decided to direct the A.O to recompute the LTCG on sale of 5 flats & proportionate amount pertaining to assessee should be brought to tax in his hand.

### ITAT DELETES PENALTY ORDER AGAINST SBI FOR NON-DEDUCTION OF TDS ON INTEREST PAID ON FDRS

**SBI vs. CIT (A) [Agra bench of Income Tax Appellate Tribunal] I.T.A Nos. 65& 66/Agra/2017**

#### Fact of the Case:-

- 1) In the instant case assessee is State Bank of India.
- 2) During the assessment proceedings, the assessing Officer observed that the assessee has failed to deduct TDS on interest paid on FDRs and to deposit the same.
- 3) As a result, A.O imposed a penalty of Rs.4, 25,420 on the assessee under section 271C of Income Tax Act 1961.
- 4) CIT (A) also confirmed the penalty imposed by the AO.
- 5) Being dissatisfied the assessee approached the Tribunal on further appeal.
- 6) Before the bench, the counsel for the assessee submitted that both the lower authorities confirmed the penalty without appreciating the fact that there was a reasonable cause which

prevented the assessee to act like a man of average intelligence and ordinary prudence under normal circumstances.

- 7) Counsel also submitted that the assessee voluntarily deposited the amount of short deduction as soon as it came to its notice that the compliance was not done in accordance with the Act.
- 8) Further they argued that the authorities not appreciating the fact that the assessee, being a Branch of a banking company, has no reason to deduct the tax at lower or NIL rate and hence, the penalty levied is without any application of mind and is unjustified and bad in law.

#### Decision of the Case:-

- 1) After considering the facts and circumstances of the case, Tribunal bench observed that "the assessee cannot be considered as having done willful neglect for non-compliance of the TDS provisions, it was just a technical mistake and, accordingly, the assessee cannot be held to be an assessee in default and no penalty can be imposed.
- 2) The division bench further observed that evident revealed that the assessee was visited with reasonable cause beyond its control leading to the alleged default and mistake occurred because of a software updation error. Therefore it can be concluded that it was an unintentional mistake and, accordingly, penalty should not be imposed.

Agra bench of Income Tax Appellate Tribunal (ITAT) granted relief to State Bank of India from penalty imposed by the Assessing Officer on account of non-deduction of Tax at Source.

### LEGAL PROVISIONS FOR CANCELLATION OF GRANTED REGISTRATION

**Industrial Infrastructure Development Corporation vs. Commissioner of Income Tax (Supreme Court)**

**Civil Appeal No.6262 of 2010**

**Date of pronouncement - February 16, 2018**

#### Fact of the Case:-

- 1) The appellant is a limited company registered under the companies act established for developing & assisting in the industrial growth in the state of Madhya Pradesh ..
- 2) They filed an application u/s 12(A) to the Commissioner of Income Tax for granting registration as they were engaged in public utility service. They also made an application for condonation of delay in filing application.
- 3) The CIT(Gwalior) condoned delay & granted registration certificate on 13.4.1999
- 4) On 27.11.2000, The CIT issued a show cause notice to the appellant & subsequently not being satisfied with the reply of show cause notice by the appellant, cancelled the registration certificate issued to the appellant.
- 5) Being aggrieved the appellant filed rectification application u/s 154 of the IT Act before CIT on 4.7.2002.
- 6) On 20.12.2002 the CIT rejected the application filed by the appellant stating that there was no

error & the cancellation of registration was legal & proper.

- 7) Being aggrieved with the order, the appellant further filed an appeal before the Income Tax Appellate Tribunal, Agra Bench. The Bench allowed the appellant's appeal & set aside the order of CIT.
- 8) The Revenue felt aggrieved by the order of the ITAT & filed appeal in the High Court at Gwalior Bench u/s 260A of the Act. The High Court allowed the appeal filed by the revenue & set aside the order of ITAT & restores the order of CIT.
- 9) In the opinion of divisional bench of the High Court, Section 21 is the source of power to pass cancellation of the certificate granted by the CIT when there is no express power available under section 12A of the Act.

#### **Decision of the Case**

- 1) For consideration of the appeal following points to be considered.
  - (a) Whether the CIT has express power to cancel the registration certificate once granted by him u/s 12A.
  - (b) The CIT grants registration certificate u/s 12A of the Act to the assessee. Whether to grant registration certificate is his quasi-judicial function or not.
  - (c) Whether section 21 of the general clauses Act can be applied to support the order of cancellation of registration certificate granted by the CIT u/s 12A of the Act.
  - (d) What is the effect of the amendment made in section 12AA.
- 2) The considerations of the learned counsel are as follows:-
  - (a) The CIT had no express power of cancellation of the registration certificate once granted by him to the assessee u/s 12A till 1.10.2004.
  - (b) The order passed u/s 12A by the CIT is neither legislative nor executive but a quasi-judicial order only & under such situation if express power is not vested in him then the CIT cannot cancel the registration certificate.
  - (c) The CIT passed u/s 12A does not fall in the category of "orders" mentioned in section 21 of the general clauses Act.
  - (d) Section 21, has to be either executive or legislative in nature whereas the order, which the CIT is required to pass under section 12A of the Act, is neither legislative nor an executive order but it is a "quasi judicial order". It is for this reason; Section 21 has no application in this case.
  - (e) Amendment of Section 12AA is effective from 1.10.2004 hence such power could be exercised by the CIT only on & after 1.10.2004 because amendment in question was not retrospective but was prospective in nature.
  - (f) In the light of the foregoing discussion, the appeal succeeds & is allowed. Impugned order is set aside & the order of ITAT is restored.

#### **NO TDS LIABILITY TO DISNEY BROADCASTING (INDIA) ON PAYMENTS MADE FOR TRANSPONDER SERVICES**

**United Home Entertainment Private Limited & Disney Broadcasting (India) Limited vs. the Dy. Commissioner of Income Tax**

**Case No. -ITA No. 1289/MUM/2016 & ITA Nos.1290 to 1302 & 1303 to 1308/MUM/2016**

**Date of pronouncement: - 9<sup>th</sup> February, 2018**

#### **Fact of the Case:-**

- 1) Assessee in the present case Disney Broadcasting (India) Limited is a company incorporated under the provisions of Companies Act 1956 and engaged in the business of entertainment. During the year the Assessee Company entered into a Transponder Service Agreement another company which is situated in UK to avail transponder service.
- 2) During the course of assessment proceedings the Assessing Officer (AO) noticed that the payment made by the Assessee to the transponder service company was escaped from tax. Before the AO counsel for the Assessee, advocate submitted that the amount paid to the said company situated in UK will not be taxable in India.
- 3) However the AO observed that the payment made by the Assessee in terms of the service agreement was in the nature of 'royalty' as per the provisions of the Act as well as under the India-UK Double Taxation Avoidance Agreement (DTAA). Accordingly, the Assessing Officer held that the payment to Intelsat attracted tax at 10% plus applicable surcharge as it was in the nature of royalty.
- 4) On appeal CIT (A) confirmed the action of the AO and passed such an order against the Assessee. Aggrieved by the order passed by the authority, Assessee made approach to the Tribunal on further appeal.
- 5) Before the bench counsel for the Assessee argued that the fee for transponder service paid by the assessee was not in the nature of royalty and that the same was not taxable in India, and thus the remittance did not warrant any deduction of tax at source.

#### **Decision of the Case:-**

- 1) Considering the rival submissions of both parties, the Tribunal bench observed that "payment made by the Assessee Company to the transponder service company would not be taxable in India under the provisions of Indo-UK DTAA; therefore the Assessee is not obliged to deduct TDS".
- 2) The division bench further observed that "the aforementioned transponder company is a UK based company, therefore, Indo-UK DTAA is applicable and since it does not have any PE or business connection in India, therefore, the payment made to a non-resident outside India for availing service of equipment placed outside India cannot be taxed in India. In any case, it has been submitted that, even otherwise also the definition of "royalty" under Article 12(3) of Indo-US-DTAA is also not applicable, because transponder charges is only use of facility and it is not an equipment and does not amount to use of any copyright effecting work, secret formula, process etc".
- 3) Therefore Assessee in the present case would not be obliged to deduct tax at source on payments made by transponder services.

**NOTICE SERVED ON LAWYER IS VALID IF ASSESSEE WAS NOT AVAILABLE TO RECEIVE THE SAME ON SEVERAL OCCASIONS**

**Income Tax Officer v. Dharam Narain, (Supreme Court)  
CIVIL APPEAL NO(S). 2262 OF 2018**

**Fact of the Case:-**

- 1) The assessee in the present case is an individual.
- 2) During the assessment year, the Revenue issued notice under section 143(2) of the Income Tax Act 1961 for scrutiny assessment on 16th October 2006 and the same was despatched on 18th October 2006 by registered post.
- 3) But the assessee was not available to receive the notice. Therefore, the Revenue served same to the authorized representatives of the Assessee and started proceedings under section 143(2) of the Act.
- 4) Thereafter the Assessee approached the High Court by filing a return petition against the action of the Revenue. He compiled that he does not receive any notice by himself, and then it is not possible to start proceedings under section 143(2) of the Act in the circumstances.
- 5) After perusing the available materials the Court accepted the submission of the Assessee and quashed the notice dated 16th October 2006 issued by the Revenue and accordingly allowed the writ petition filed by the Assessee.
- 6) Aggrieved by the order passed by the High Court, the Revenue approached the Supreme Court on appeal.

**Decision of the Case:-**

- 1) Analyzing the narrated facts and circumstances, the Apex Court observed that “non-availability of the Assessee to receive the notice sent by registered post as many as on two occasions and service of notice on 19th October 2006 on the authorized representative of the Assessee whom the Assessee now disowns is sufficient to draw an inference of deemed service of notice on the Assessee and sufficient compliance of the requirement of section 143(2) of the Income Tax Act 1961”.
- 2) The Court further held that “what is required to be satisfied by the Revenue is service of notice and not mere issuance thereof and the High Court made a wrong conclusion in the present case without considering the facts of the issue”.
- 3) According to The Supreme Court, a notice served on the authorized representative can be termed as valid if the Assessee was not available to receive the notice sent by post on several occasions. The Court set aside the order passed by the High Court and allowed the appeal filed by the Revenue.

**PROVISION OF TDS UNDER DTAA**

**Danisco India Private Ltd vs. UOI (Delhi High Court)  
W.P. (C) 5908/2015  
February 5, 2018 (Date of pronouncement)**

**Fact of the Case:-**

- 1) The petitioner is an Indian Assessee who remits payment to M/S DuPont in Singapore in the normal course of its business. M/S DuPont is a non-resident company located in Singapore .It is not a Taxable assessee in India.

- 2) The tax relationship between the two countries is regulated in terms of Indo-Singapore DTAA.
- 3) The relevant provisions of DTAA mandate a cap of 10% upon the recovery of amounts.
- 4) The services rendered by DuPont are covered by the expression “Fees for Technical Services”. Even if the tax rate for the activity is higher ,not more than 10% can be recovered by the Indian Tax Authorities.
- 5) The petitioner contends that section 266AA has the effect of undoing the provisions of DTAA.So, the levy @ 20% imposed is unconstitutional relies upon the recommendation of Justice Easwar’s Committee’s Report of 2016 made to the Central Government.
- 6) It is contended that acting upon the recommendations, the Central Government moved an amendment & passed through Finance Act of 2016.The effect of amendment is the neutralization of existing provision.

**Decision of the Case:-**

- 1) The amendment is mitigating to a large extent, the rigors of the pre-existing laws.
- 2) Section 90(2) provides that the provisions of the DTAA would override the provisions of Domestic Act in cases where the provisions of DTAA are more beneficial to the assessee.
- 3) Depending upon the numerous decisions of Honorable Supreme Court it is stated that DTAA acquires primacy in such cases , which reciprocating states mutually agree upon acceptable principles for tax treatment ,the provision in section 206AA (as it existed) has to read down.
- 4) The writ petition is partly allowed in the above terms.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

Date	Return Type
10 <sup>th</sup> March, 2018	GSTR 1 for the month of January, 2018 (for persons with Turnover above 1.5 Crore)
20 <sup>th</sup> March, 2018	GSTR 5 for the month of February, 2018
20 <sup>th</sup> March, 2018	GSTR 3B for February, 2018
31 <sup>st</sup> March, 2018	GSTR-6 for July, 2017 - Feb, 2018
10 <sup>th</sup> April, 2018	GSTR 1 for the month of February, 2018 (for persons with Turnover above 1.5 Crore)
18 <sup>th</sup> April, 2018	GSTR 4 for the month of January - March, 2018
20 <sup>th</sup> April, 2018	GSTR 3B for March, 2018
20 <sup>th</sup> April, 2018	GSTR 5 for the month of March, 2018
30 <sup>th</sup> April, 2018	GSTR 1 for the month of Jan- March, 2018 (for persons with Turnover below 1.5 Crore)
30 <sup>th</sup> April, 2018	GSTR 6 for July 2017 - February, 2018

## DIRECT TAX CALENDAR – MARCH, 2018

### 01.03.2018:

- Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2016-17.

### 02.03.2018:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and 194-IB in the month of January, 2018.

### 07.03.2018:

- Due date for deposit of Tax deducted/collected for the month of February, 2018. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

### 15.03.2018:

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA and 194-IB in the month of January, 2018
- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of February, 2018 has been paid without the production of a challan.
- Fourth instalment of advance tax for the assessment year 2018-19.
- Due date for payment of whole amount of advance tax in respect of assessment year 2018-19 for assessee covered under presumptive scheme of section 44AD/ 44ADA.

### 30.03.2018:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and 194-IB in the month of February, 2018.

**31.03.2018:**

- Due date for linking of Aadhaar number with PAN.
- Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2016-17.
- Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2016-17.

**DIRECT TAX CALENDAR – APRIL, 2018****07.04.2018:**

- Due date for deposit of Tax deducted by an office of the government for the month of March, 2018. However, all sum deducted by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

**14.04.2018:**

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA and Section 194-IB in the month of February, 2018

**15.04.2018:**

- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2018

**30.04.2018:**

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of March, 2018 has been paid without the production of a challan
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and Section 194-IB in the month of March, 2018
- Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2018.

**30.04.2018:**

- Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2017 to March 31, 2018.
- Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2018.
- Due date for deposit of TDS for the period January 2018 to March 2018 when Assessing Officer has permitted quarterly deposit of TDS under section 192,194A, 194D or 194H.

**WEBINAR CALENDAR UPTO 15<sup>th</sup> MARCH, 2018**

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	09.03.2018 (Friday)	4:00 - 5:00 PM	Works Contract and Builders	CMA Vivek Laddha

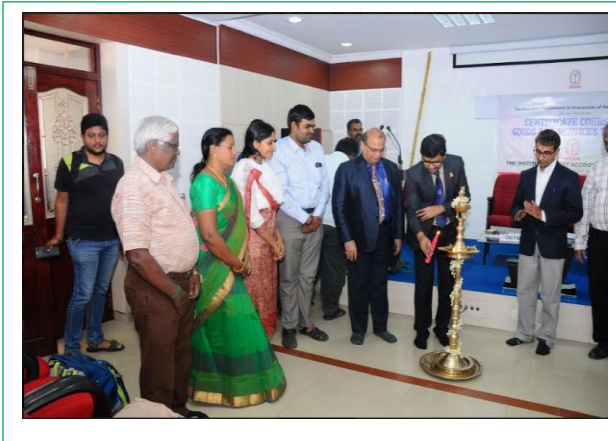
**Please note:** One CEP hour awarded for attending each webinar

# GLIMPSES OF INAUGURAL SESSION OF CERTIFICATE COURSE ON GST

## WESTERN INDIA REGIONAL COUNCIL



## SOUTHERN INDIA REGIONAL COUNCIL







### EASTERN INDIA REGIONAL COUNCIL



## NORTHERN INDIA REGIONAL COUNCIL



## BANGALORE



## HYDERABAD




## COCHIN

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### ICAI begins advanced certificate course

The Institute of Cost Accountants of India in association with Tax Research Department and Board of Advanced Studies started an advanced certificate course on GST. In connection with the same, The Institute of Cost Accountants of India, Cochin Chapter started the course at CMA Bhawan, Center for Excellence, Chalikkavattom, Vyttila which was inaugurated by Balagopal M G, Law Officer, GST Department, Ernakulam. Pushpy B Muricken, chairperson, Cochin Chapter, Rakesh R Warriar, vice-chairman, Sankar P Panicker, treasurer, SIRC, Anil Xavier, secretary also attended the function.

 THE NEW INDIAN EXPRESS Tue, 20 February 2018  
epaper.newindianexpress.co



GST Course Inauguration –  
Published in The Indian Express

## PUNE



## TRIVANDRUM





## GLIMPSES OF TRAINING PROGRAMME WITH RASHTRIYA ISPAT NIGAM LIMITED (RINL)



### KNOW YOUR RESOURCE PERSON

**CMA ANIL SHARMA**  
Practicing Cost Accountant

**CMA Anil Sharma**, Practicing Cost Accountant at Chandigarh. Before coming to practice, he served both private and public sectors for more than fifteen years.

He is consultant to number of companies and provides service in the areas of Costing, Indirect Taxes, Internal Controls and checks, MIS and systems audit.

He is a visiting faculty to NACIN, Direct tax Training Centre, and Management Institutes.

He is national speaker on GST and also panelists to many national TV Channels on taxes and other contemporary issues.

He is also associated with the Tax Research Department of the Institute.

# GST CERTIFICATE COURSE

## Course Eligibility

- **Qualified Cost & Management Accountants**
- **Other Professionals**
- **Executives from Industries**
- **GST Practitioners**

## Course Duration, Fees, Examination and other Modalities

- **Course Duration:** 12 weeks (to be conducted on Quarterly basis)
- Live classes on Saturday - 2 Hrs & Sunday - 4 Hrs
- **Assessment:** Online mode (Assessment to be conducted in the last week of the following month of every quarter)
- **Course Fee:** ₹10,000 + GST (20% Discount for CMAs) and Examination Fee ₹1000 + GST
- **Award of Certificate:** Candidates with at least 70% attendance in the classes and also passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute
- Study Materials & Model Question Bank to be provided to all participants
- Experienced faculties from Industry and practice

## Places

NORTH	SOUTH	EAST	WEST
✓ Delhi	✓ Chennai	✓ Kolkata	✓ Mumbai
✓ Faridabad	✓ Cochin	✓ Durgapur	✓ Pune
✓ Gurgaon	✓ Visakhapatnam	✓ Asansol	✓ Surat
✓ Udaipur	✓ Vijayawada	✓ Berhampur	✓ Nagpur
✓ Noida	✓ Mysore	✓ Rourkela	✓ Nasik
✓ Chandigarh	✓ Bangalore	✓ Patna	✓ Raipur
✓ Jammu	✓ Thiruvananthapuram	✓ Ranchi	✓ Bhopal
✓ Jaipur	✓ Hyderabad	✓ Bhubaneswar	✓ Ahmedabad
✓ Lucknow	✓ Madurai	✓ Agartala	✓ Panaji
✓ Dehradun	✓ Coimbatore	✓ Guwahati	✓ Baroda
✓ Jodhpur			

## Course Contents

1. Constitutional Background of GST, Concepts of GST & Definitions in GST.
2. Taxable event, Time of Supply and Place of Supply, Composite & mixed supply, nontaxable supply, exempt supply, works contract, exempted supply.
3. Classification, HSN, SAC
4. Valuation under GST, Valuation rule
5. Input Tax Credit
6. Basic Procedures - Registration, Invoice, Bill of supply, E way Bills etc.
7. Records and Returns
8. Zero Rated Supplies , Imports and Exports
9. Payment and Refunds
10. Assessment
11. Audit
12. Demands
13. Adjudication and appeal
14. Penalties and Prosecutions
15. Advance Ruling
16. Job Work
17. Anti profiteering
18. Miscellaneous Provisions
19. Case studies on specific Chapters involving real life scenarios

**Admission link:** <https://cmaicmai.in/advsc/DelegatesApplicationForm.aspx>

# 58<sup>th</sup> NATIONAL COST CONVENTION 2018



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www.icmai.in



## 58<sup>th</sup> NATIONAL COST CONVENTION 2018

### NEW INDIA 2022:

ROLE OF **CMA**s FROM INTENT  
TO ACTION



**Chief Guest**

**Shri M Venkaiah Naidu**  
Hon'ble Vice President of India

#### Guest of Honour



**Shri Suresh Prabhu**  
Hon'ble Union Minister of  
Commerce & Industry



**Shri Piyush Goyal**  
Hon'ble Union Minister of  
Railways & Coal



**Shri P.P. Chaudhary**  
Hon'ble Union Minister of  
State for Law & Justice and  
Corporate Affairs



**Shri Shiv Pratap  
Shukla**  
Minister of State for Finance



**Shri Injeti Srinivas, IAS**  
Secretary, Ministry of Corporate Affairs  
Govt. of India

MARCH 16-17, 2018

VIGYAN BHAWAN, NEW DELHI

*Behind every successful business decision, there is always a CMA.*





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Statutory Body under an Act of Parliament



# WORK WITH INTEGRITY AND SUCCEED WITH INTEGRITY.

**Dr. A. P. J Abdul Kalam**  
Former President of India

## VISION STATEMENT

"The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally."

## MISSION STATEMENT

"The Cost and Management Accountant professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting."

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## ABOUT

# THE INSTITUTE

The Institute of Cost Accountants of India is a statutory body set up under an Act of Parliament in the year 1959. The Institute as a part of its obligation, regulates the profession of Cost and Management Accountancy, enrolls students for its courses, provides coaching facilities to the students, organizes professional development programmes for the members and undertakes research programmes in the field of Cost and Management Accountancy. The Institute pursues the vision of cost competitiveness, cost management, efficient use of resources and structured approach to cost accounting as the key drivers of the profession. In today's world, the profession of conventional accounting and auditing has taken a back seat and cost and management accountants are increasingly contributing towards the management of scarce resources and apply strategic decisions. This has opened up further scope and tremendous opportunities for cost accountants in India and abroad.

After an amendment passed by Parliament of India, the Institute is now renamed as "The Institute of Cost Accountants of India" from "The Institute of Cost and Works Accountants of India". The Institute is the 2nd largest Cost & Management Accounting body in the world and the largest in Asia, having approximately 5,00,000 students and 70,000 members all over the globe. The Institution headquartered at Kolkata operates through four regional councils at Kolkata, Delhi, Mumbai and Chennai and 95 Chapters situated at important cities in the country as well as 9 Overseas Centres. It is under the administrative control of Ministry of Corporate Affairs, Government of India.

The Institute apart from being a member of International Federation of Accountants (IFAC), South-Asian Federation of Accountants (SAFA), Confederation of Asian & Pacific Accountants (CAPA), National Advisory Committee on Accounting Standards (NACAS), and National Foundation for Corporate Governance (NFCG) is also a member of Government Accounting Standards Advisory Board (GASAB).

58<sup>th</sup> National Cost Convention, 2018



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

## MESSAGE OF THE PRESIDENT



It had been indeed a welcome move, rather a long awaited one when our Hon'ble Prime Minister of India Shri Narendra Modi explained his idea of "New India" and urged people earnestly to take vow for meeting the target by 2022, the need being to reinvent India as an Innovation Nation. Shri. Modi emphasized that India becoming a world power will be unstoppable if the mission is successful. The idea is to create the opportunities for poor so as to enable them to chart their own course and help them rise above poverty. India, he said, should be looked upon as a hub for the opportunities for poor and that the dependence on charity to be done away with completely.

The vision was articulated last year in 2017 on the occasion of 70th Independence Day in the Prime Minister's speech from the Red Fort. Also, the Hon'ble President of India Shri Ram Nath Kovind made a mention of it in his address to public on the eve of Independence Day. Now that we are in the year 2018, the country is already witnessing positive indications in this direction. A few of these being the improvement in World Bank ranking by 30 places from 130 in 2017 to 100 in 2018, India emerging as the fastest growing major economy according to CSO/IMF, implementation of Goods and Services Tax (GST), introduction of the Insolvency and Bankruptcy Code-2016, Valuation Norms prescribed by the Companies Act-2013 and rising awareness about Forensic Audit for risk management.

The above developments act as an impetus for us all who have faith in ourselves and believe firmly in meeting the ends with constant perseverance leaving no stone unturned till the objective is fulfilled.

Another aim that the Government is envisaging is on materialising the concept of "One Nation – One Election". As such the nation is moving towards the federal structure with the implementation of GST that has made "One Nation – One Market" a reality.

It is not only from the standpoint of the commercial parlance that India is progressing fast, but technologically speaking, the country commands a good standing world-wide. In the Year 2017, ISRO achieved another milestone by launching 104 satellites from a single rocket.

We, at the institute and the CMA fraternity are committed to support the Government and its initiatives and I am very glad that the theme of the National Cost Convention is well aligned for that matter. I am sure that the deliberations during this two-day convention will be catering to the needs of all the participants and that there will be takeaway for one and all from the convention.

**CMA SANJAY GUPTA**  
**PRESIDENT**

58<sup>th</sup> National Cost Convention, 2018

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## MESSAGE FROM THE CHAIRMAN

*"Less Time, More Work"  
"Less Talk, More Action"*



**CMA H. Padmanabhan**  
Vice President

Dear Friend,

This gives us immense pleasure to inform you that the Institute of Cost Accountants of India is organizing its 58th National Cost Convention (NCC – 2018) on 16 – 17 March, 2018 at Vigyan Bhawan, New Delhi on the theme "New India 2022: Role of CMA from Intent to Action". The Convention aims to address emerging issues of economy with thought-provoking deliberations of eminent resource persons and domain experts.

We earnestly request all the members, students and officials of the Institute, representatives from corporate and media houses and other stakeholders to participate in the Convention in a large way to make it a grand success. We also like to request our professional colleagues from the Chapters and Regions to actively participate for the overall success of the Convention.

Varied topics would be discussed by eminent experts, top-notch bureaucrats, policy makers and dignitaries from industry, academia and professional bodies. The take away for the participants will be enormous professional and technical wisdom. The participants will definitely be able to simulate and generate innovative ideas and knowledge inputs towards fulfillment of the vision of New India 2022.

We look forward to welcome you at the Convention venue and request your wholehearted support and co-operation to make NCC-2018 a memorable one.

Warm regards and Best Wishes,

**"TOGETHER LET US AIM AHEAD"**

**CMA H. Padmanabhan**  
Chairman  
NCC-2018

**CMA Sunil Singh**  
Co-Chairman  
NCC-2018

**CMA Balwinder Singh**  
Convenor  
NCC-2018



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## ABOUT THE THEME

### NEW INDIA 2022: ROLE OF **CMAs** FROM INTENT TO ACTION

India has emerged as the fastest-growing major economy in the world as per the CSO and IMF and it is expected to be one of the top three economic powers of the world over the next 10-15 years, backed by its strong democracy and partnerships. India's labour force is expected to touch 160-170 million by 2020, based on the rate of population growth, increased labour force participation, and higher education enrolment, among other factors, according to the study.

India has improved its ranking in the World Bank's Doing Business Report by 30 spots over its 2017 ranking and is ranked 100 among 190 countries in 2018 edition of the report. India's GDP is expected to reach US\$ 6 trillion by FY27 and achieve upper-middle income status on the back of digitisation, globalisation, favourable demographics, and reforms. India is expected to be the third largest consumer economy as its consumption may triple to US\$ 4 trillion by 2025, owing to shift in consumer behaviour and expenditure pattern, according to a BCG report; and is estimated to surpass USA to become the second largest economy in terms of purchasing power parity (PPP) by the year 2040.

The global manufacturer landscape has been evolving at a very fast pace. Existing dynamism and fierce competition in the global market space compel all players to maintain their products and services at a competitive price without compromising on the quality. CMAs with their acumen in managing costs and providing cost-effective business models, can be instrumental in ensuring cost competitiveness in Indian manufacturing companies by reducing wasteful activities & waste production, innovating and improving processes and systems to reduce 'avoidable costs' and attain quality standard of production; finally positioning the country as a low-cost hub of manufacturing quality products. Over the years, the CMA profession has strived relentlessly to promote the socio-economic development of the country. The CMAs are considered to be the powerhouse in the Indian economy as they are trained to be cost competitive, utilize available resources in an efficient and cost-effective manner through cost optimization, efficient deployment of scarce resources leading to cost control, cost reduction and cost consciousness. With our Professional expertise, we are dedicated to professional contribution in nation building, and to realise Vision New India 2022.

Various sessions of NCC-2018 will deliberate discussions on New India 2022: Role of CMAs and the imperative of providing cost competitive environment to encourage global players. This is the key to transform India to achieve the targeted economic growth, and to pull India's poor from poverty.



**TENTATIVE  
PROGRAM DETAILS**

16<sup>th</sup>-17<sup>th</sup> March, 2018, Friday & Saturday

**DAY - 1 & 2**

**Inaugural Session**

**Plenary Session**

New India 2022: Role of CMAs from Intent to Action

**Technical Sessions**

Ease of Doing Business: Contribution of CMAs

Insolvency & Bankruptcy Code: CMAs Reviving Businesses

New India 2022: Vision of CMAs

Indian Railways: CMAs as Game Changer

Valuation: A New Perspective

Challenges in Doubling Indian Farmers' Income: Role of CMAs

Anti Profiteering: An Opportunity for CMAs

**Cultural Program on Day 1**

**Convention Dinner on Day 1**

**PANEL DISCUSSION : CEO Speaks**

Empowering India Inc Growth: 2018-2022

Strategy Trends to Transform India

**Valedictory Session on Day 2**

**Venue**

**VIGYAN BHAWAN, Maulana Azad Road, New Delhi - 110001**



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**Calmness in Chaos**

A special talk by  
**Dr Mohit D Gupta**

Professor of Cardiology, GB Pant Hospital



**MINING  
GREAT MINDS**



**Hon'ble Justice  
Shri Sudhansu Jyoti  
Mukhopadhyaya**  
Chairperson of the National  
Company Law Appellate Tribunal



**Mr. B.N Sharma, IAS**  
Chairman  
National Anti-Profiteering  
Authority



**Mr. M.S.Sahoo**  
Chairman  
The Insolvency and  
Bankruptcy Board of India



**CMA B.S.Bhalla, IAS**  
Joint Secretary  
Ministry of Commerce  
and Industry



**CMA Rajeev Mehrotra**  
CMD  
RITES LTD



**CMA Manoj Mishra**  
CMD  
National Fertilizers Ltd.



**CMA Upender Gupta**  
Commissioner  
CBEC



**Mr. Ajai Das Mehrotra**  
IRS, Chief-Commissioner  
Income Tax



**CMA Robin Banerjee**  
Managing Director  
Caprihan's India Ltd.



**CMA Partha Basu**  
Global GPO  
AkzoNobel NV (Amsterdam)



**CMA Sanjay Jaju, IAS**  
Director (Finance)  
NHIDCL



**Sr. Adv. Amarjit Singh  
Chandhok**  
President-INSOL India



**Mrs. Smitri Kaur**  
Principal  
Sri Ram College of Commerce  
Delhi University



**Mr. Brian McEneary**  
Global President  
Association of Chartered  
Certified Accountants (London)



**CMA Anil Chaudhary**  
Director (Finance)  
Steel Authority of India Ltd.



**CMA Vivekanand**  
Director (Finance)  
ONGC VIDESH



**CMA  
Ramesh Subramanyam**  
CFO  
TATA Power Co. Ltd.



**Mr. Rakesh Kumar**  
Director (Finance)  
NLC India Ltd.



**CMA  
Mahesh Kumar Mittal**  
Director (Finance)  
NHPC Ltd.



**CMA Saikat Kumar**  
CEO  
Almasah Capital  
Management Ltd. (Dubai)



**CMA  
Mahendra Mehra**  
CFO - Jasmis Corporation  
WLL (Bahrain)



**Mr. Mohit Bhasin**  
Director  
KPMG India



**Mr. Y.V.S.Sravankumar**  
Executive Vice President  
LARSEN & TOUBRO



**Mr. Harish Chander**  
Executive Vice-President  
Edelweiss Financial Services



**CMA  
Dr. Girish Jakhotiya**  
Senior Consultant

(\*CONFIRMATIONS RECEIVED TILL FEBRUARY 24, 2018)



## REGISTRATION PROCEDURE

### Participants

Cost and Management Accountants, Company Secretaries, Chartered Accountants, Legal Professionals, MBAs, Directors and other Senior Management Executives in the Corporate & Services Sector and other Professionals working in Costing, Financial, Management and Academic Disciplines would benefit from participating in the Convention.

### Speakers

Eminent persons from the Government and Industry, including Professionals & Management Experts will address the delegates. There would be brainstorming interactive sessions.

### Papers for Discussion

Members who wish to contribute papers for publication in the Souvenir are requested to send the same through e-mail ([ncc2018@icmai.in](mailto:ncc2018@icmai.in)) on or before 7<sup>th</sup> March, 2018. An honorarium of Rs. 2,500/- will be paid by the Institute for each paper selected by the screening committee for publication in the Souvenir.

### Delegate Fee\* (Non Residential)

Type of Delegate	Early bird (Discounted fee paid up to Feb 28 <sup>th</sup> 2018)	Others (Delegate fee paid on or after March 1 <sup>st</sup> 2018)
Corporate Delegates	₹ 4,500/- + 18% GST = ₹ 5,310/-	₹ 5,000/- + 18% GST = ₹ 5,900/-
Cost Accountants – in –Practice/ Self Sponsored Members	₹ 3,500/- + 18% GST = ₹ 4,130/-	₹ 4,000/- + 18% GST = ₹ 4,720/-
Accompanying Guest/Spouse	₹ 2,000/- + 18% GST = ₹ 2,360/-	₹ 2,000/- + 18% GST = ₹ 2,360/-
Students	₹ 1,500/- + 18% GST = ₹ 1,770/-	₹ 2,000/- + 18% GST = ₹ 2,360/-
Foreign Delegates	\$ 250/-	\$ 300/-

The Entire fee is payable in advance and is not refundable once the nomination / delegation fee is received.

### CEP Hours

The members of The Institute of Cost Accountants of India will be given **8 CEP** hours for attending the Convention.

### Delegate Registration

For more details, please visit the website - [www.icmai.in](http://www.icmai.in)



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

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### SPONSORSHIP & ADVERTISEMENT TARIFF

#### PLATINUM SPONSOR (₹ 10 Lacs)

- Prominent Display on the convention backdrop as Platinum Sponsor.
- Acknowledgment on National Conference website as Platinum Sponsor.
- Display as the Platinum Sponsor on the banners and signages.
- Full Page Colour Advertisement in the Convention Souvenir and ICMAI's Journal (March/April Edition)
- Sponsor Logo in delegate badges, cover page of the writing pad of Convention.
- Delegate Fee exemption for 10 delegates.

#### GOLD SPONSOR (₹ 5 Lacs)

- Prominent Display on the convention backdrop as Gold Sponsor.
- Acknowledgment on National Conference website as Gold Sponsor.
- Display as the Gold Sponsor on the banners and signages.
- Full Page Colour Advertisement in the Convention Souvenir and ICMAI's Journal (March/April Edition)
- Sponsor Logo in delegate badges, cover page of the writing pad of Convention.
- Delegate Fee exemption for 6 delegates.

#### SILVER SPONSOR (₹ 3 Lacs)

- Prominent Display on the convention backdrop as Silver Sponsor.
- Acknowledgment on National Conference website as Silver Sponsor.
- Full Page Colour Advertisement in the Convention Souvenir and ICMAI's Journal (March/April Edition)
- Display as the Silver Sponsor on the banners and signages.
- Delegate Fee exemption for 4 delegates.

#### SPONSOR FOR LUNCH/DINNER (₹ 3 Lacs)

- Prominent Display on the convention backdrop as Sponsor.
- Acknowledgment on National Conference website as Sponsor.
- Display at convention lunch/dinner.
- Full Page Colour Advertisement in the Convention Souvenir and ICMAI's Journal (March/April Edition)
- Delegate Fee exemption for 4 delegates.





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### SPONSORSHIP & ADVERTISEMENT TARIFF

#### SPONSOR FOR CONVENTION KIT (₹ 2.5 Lacs)

- Prominent Display on the convention backdrop as Sponsor.
- Acknowledgment on National Conference website as Sponsor.
- Sponsor Logo printed on Convention Kit.
- Full Page Colour Advertisement in the Conference Souvenir.
- Delegate Fee exemption for 3 delegates.

#### OTHER SPONSORSHIPS AVENUES

Tea–Coffee Break (4 Qty)	₹ 1,00,000 each
Cultural Event	₹ 1,00,000/-
Mementoes	₹ 1,00,000/-
Others (Banner/Publicity Material)	₹ 75,000/-

#### ADVERTISEMENT TARIFF FOR SOUVENIR

Back Cover	₹ 1,50,000/-
Front/Back Cover Inside	₹ 1,00,000/-
Colour Full Page	₹ 75,000/-
Colour Half Page	₹ 50,000/-
Colour Quarter page	₹ 30,000/-



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### UNIQUE SPONSORSHIP

### OPPORTUNITY FOR PCAs

Any Practising Cost Accountant (PCA) / Practising Cost Accountant firm can give an advertisement in souvenir to be released at the NCC 2018. The advertisement shall be "With best compliments from (name of PCA firm, its address & contact details) shall be printed in that box". No others details (like various service offered or area of specialization etc.) about the firm shall be allowed.

One full page of souvenir is divided into four boxes of equal size .For each such box ,the advertisement tariff is ₹ 20,000/-. If any PCA/PCA firm is paying ₹ 30,000/-then size of advertisement is equivalent to two such boxes i.e half page and if any PCA/PCA firm is paying ₹ 45,000/- then size of advertisement is equivalent to four such boxes i.e. full page.

The PCA/PCA firm is allowed the following number of delegate(s) to attend 58th National Cost Convention without payment of delegate fee.

₹ 20,000/- One Complimentary member can attend the Convention

₹ 30,000/- Two Complimentary members can attend the Convention

₹ 45,000/- Four Complimentary members can attend the Convention

## TAXATION COMMITTEE - PLAN OF ACTION

### Proposed Action Plan:

1. Train the trainers' program - capacity building of the practicing members of the Institute and others on PAN India basis to equip them on Registration, record maintenance, Filing of different returns and other matters.
2. Carry out webinars for the Capacity Building of Members of the Institute - Trainers in the locality to facilitate the traders/ registered dealers on various practical aspects.
3. Conducting Seminars in association with the Trade associations/ Traders/ Chambers of Commerce at different locations on practical issues/aspects associated with GST.
4. Conducting workshop on industry specific issues with Chambers of Commerce, CREDAI, Jewellers Association, Hotel and Restaurant Association, Bankers' Association and other agencies to resolve their issues instantly.
5. Forwarding suggestions and issues on GST to the Government after getting feedback from various stake holders.
6. Extending Certificate Course on GST for corporate and Trade Bodies.

### Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

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# **THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

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