

# TAX

## Bulletin

February, 2018 Volume - 9



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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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

“Coming together is a beginning; keeping together is progress; working together is success”.

- **Henry Ford**

The Institute of Cost Accountants of India (ICAI) – Tax Research Department & Bhubaneswar Chapter organized National Seminar on GST on 27th and 28th of January, 2018 at KIIT Convention Center (Campus-6), Bhubaneswar, Odisha. The title of the National Seminar was “**Goods and Services Taxes–The Sustainability Imperative**”

The conference was inaugurated by **Shri Shashi Bhusan Behera**, Ho'ble Cabinet Minister (Finance, Excise & PE), Govt. of Odisha. The valedictory session was attended by Shri Saswat Mishra, IAS and Commissioner State Tax as special Guest.

More than 700 delegates and invitees from Government, Corporate houses, Industry, Educational Institutions and Industry associations have participated in the Seminar.

I am also pleased to share that the Certificate Course in GST has been launched by the Tax Research Department of our Institute. Admission is opened across 39 locations PAN India, with many crossing the threshold limit of 20 students per location. The response that we are in receipt of is heart-warming. The course is scheduled to be started from 17<sup>th</sup> February 2018.

I would like to congratulate the members of Tax Research Department and Bhubaneswar Chapter of ICAI for their untiring efforts. I am also grateful to the stake holders and members for their thoughtful contributions and insight. Your support and participation is solicited in our endeavour to work harder in future.

**CMA Niranjana Mishra**

Chairman – Taxation Committee

2<sup>nd</sup> February, 2018.

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# ELECTRONIC WAY BILL (E-WAY BILL) – PROVISIONS AND OBLIGATIONS UNDER GST LAWS

**CMA NIRANJAN SWAIN**

Senior General Manager (Finance), Odisha Power Generation Corporation Ltd

## Introduction:

After roll out of GST from 1<sup>st</sup> July 2018, the Central Government, in exercise of powers conferred by section 164 of CGST Act, 2017 has introduced rule 138 to Central Goods & Service Tax Rules, 2017 which was notified vide **Notification no. 27/2017 – Central Tax dated. 30<sup>th</sup> August 2017**. Further Notification No. 74/2017 – Central Tax, dated. 29<sup>th</sup> December, 2017 has notified the 1<sup>st</sup> day of February, 2018 as the date from which the provisions set out in Rule 138 is applicable. Rule 138 of the CGST Rules, 2017 provides for the e-way bill mechanism and in this context it is important to note that “information is to be furnished prior to the commencement of movement of goods” and “is to be issued whether the movement is in relation to a supply or for reasons other than supply”.

## 1. What is Electronic Way Bill (E-Way Bill):

It is basically a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. It ensures that goods being transported comply with the GST Law and is an effective tool to track movement of goods and check tax evasion.

- As per Rule 138 of the CGST Rules, 2017, every registered person who causes movement of goods (which may not necessarily be on account of supply) of consignment value more than ₹50000/- is required to furnish above mentioned information in **part A of e-way bill**. The **part B** containing transport details helps in generation of e-way bill.
- E-way bill is an electronic document generated on the GST portal evidencing movement of goods. It has two Components-Part A comprising of details of GSTIN of recipient, place of delivery (PIN Code), invoice or challan number and date, value of goods, HSN code, transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and reasons for transportation; and Part B comprising of transporter details (Vehicle number).

## 2. When should e-Way Bill be issued?

E-way bill will be generated when there is a movement of goods of value more than ₹50,000/-

- ❖ In relation to a ‘supply’
- ❖ For reasons other than a ‘supply’ (may be sales return)

- ❖ Due to inward ‘supply’ from an unregistered person

For this purpose, a supply may be either of the following:

- ❖ A supply made for a consideration (payment) in the course of business
- ❖ A supply made for a consideration (payment) which may not be in the course of business
- ❖ A supply without consideration (without payment)

In simpler terms, the term ‘supply’ usually means a:

- ❖ Sale – sale of goods and payment made
- ❖ Transfer – branch transfers for instance
- ❖ Barter/Exchange – where the payment is by goods instead of in money

E-Way Bills must be generated on the common portal for all these types of movements.

## 3. Who should generate the e-way bill and why:

- E-way bill is to be generated by the consignor or consignee himself if the transportation is being done in own/hired conveyance or by railways by air or by Vessel.
- If the goods are handed over to a transporter for transportation by road, E-way bill is to be generated by the Transporter.
- Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than ₹50,000/- it shall be the responsibility of the transporter to generate it.

❖ **Registered Person** - E-way bill must be generated when there is a movement of goods of more than ₹50,000 in value to or from a Registered Person. A Registered person or the transporter may choose to generate and carry e-way bill even if the value of goods is less than ₹50,000.

❖ **Unregistered Persons** - Unregistered persons are also required to generate e-Way Bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.

❖ **Transporter** - Transporters carrying goods by road, air, rail, etc. also need to generate



e-Way Bill if the supplier has not generated an e-Way Bill.

- ❖ **Others** - Where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment. Where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

#### 4. How is it generated? The Rule provides for a specified form – GST EWB:

An abstract of e-way bill generation is given below for reference

<i>Who shall issue</i>	<i>When to Issue</i>	<i>Form to be used / Remarks</i>
<i>Every Registered person under GST</i>	<i>Before movement of goods</i>	<i>Fill Part A. Form GST EWB-01</i>
<i>Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods</i>	<i>Before movement of goods</i>	<i>Fill Part B Form GST EWB-01</i>
<i>Registered person is consignor or consignee and goods are handed over to transporter of goods</i>	<i>Before movement of goods</i>	<i>Fill Part B The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01</i>
<i>Transporter of goods</i>	<i>Before movement of goods</i>	<i>Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01</i>
<i>An unregistered person under GST and recipient is registered</i>	<i>Compliance to be done by Recipient as if he is the Supplier.</i>	<i>(i) If the goods are transported for a distance of ten kilometers or less, within the same State/Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part</i>

		<b><i>B of FORM GST EWB-01.</i></b>  <i>(ii) If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the recipient</i>
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- To generate the e-way bill, documents /details such as (i) invoice/ bill of supply/ challan related to the consignment of goods (ii) for transport by road – transporter ID or vehicle number (iii) transport by rail, air, or ship – transporter ID, transport document number, and date on the document are required.
- Reason of transportation may be, **supply, export or import, job work, SKD or CKD, recipient not known, line of sales, exhibition or fairs or own use others** which is to be chosen in the e-way bill be format.
- A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in **FORM GST INV-1** and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.
- In the above case, the registered person will not have to upload the information in **Part A of FORM GST EWB-01** for generation of e-way bill and the same shall be auto populated by the common portal on the basis of the information furnished in **FORM GST INV-1**.
- Upon generation of the e-way bill on the common portal, **a unique e-way bill number (EBN) generated by the common portal**, shall be made available to the supplier, the recipient and the transporter on the common portal.
- The details of e-way bill generated shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill. In case, the recipient **does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.**

#### 5. Validity of e-Way Bill:

- An e-way bill is valid for the periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date (relevant date) and time of generation of e-way bill –

Relevant Distance coverage	Validity of EWB
Less Than 100 Kms	1 Day
For every additional 100 Kms or part thereof	additional 1 Day

- The “**relevant date**” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and **each day shall be counted as twenty - four hours.**
- In general, the validity of the e-way bill cannot be extended. However, **Commissioner may extend the validity period only by way of issue of notification for certain categories of goods which shall be specified later.**
- Further, if under circumstances of an exceptional nature, the goods cannot be transported **within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.**

#### 6. Cancellation of E-Way Bill:

- Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.
- However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.
- The facility of generation and cancellation of e-way bill will also be made available through SMS.

#### 7. Issue of E-WAY Bill in case of multiple consignments in single Vehicle:

- As stated above, an e-way bill has to be prepared for every consignment where the value of the consignment exceeds ₹50,000/-. Where multiple consignments of varying values (per consignment) are carried in a single vehicle, e-way bill needs to be mandatorily generated only for those consignments whose value exceeds ₹50,000/-.
- This does not however preclude the consignor/ consignee/ transporter to generate e-way bills even for individual consignments whose value is less than ₹50,000/- per consignment.
- For multiple consignments being carried in the same vehicle, the transporter to prepare a consolidated e-way bill by indicating serial number of each e-way bill, on the common prior to commencement of transport of goods.

#### 8. Issue of E-Way Bill in case of multiple Vehicle used for same consignment:

- In case of long route transport, there may be multiple vehicles are required to be used for carrying the same consignment to its destination. Besides above there may be unforeseen exigencies which require the consignments to be carried in a different conveyance than the original one.
- Under above situations, the rules provide that any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of the conveyance in the e-way bill on the common portal in **FORM GST EWB-01.**

#### 9. Carry of documents by in charge of Conveyance:

- Under Rule 138A, a person in charge of a conveyance has to carry the invoice or bill of supply or delivery challan, as the case may be and a copy of the e-way bill or the e-way bill number, either physically or **mapped to a Radio Frequency Identification Device embedded on to the conveyance** in such manner as may be notified by the Commissioner.
- However, where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:
  - ❖ Tax invoice or bill of supply or bill of entry; or
  - ❖ A delivery challan, where the goods are transported for reasons other than byway of supply.
- The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

#### 10. E-Way bill to be issued whether for supply or otherwise:

- E-way bill is to be issued irrespective of whether the movement of goods is caused by reasons of supply or otherwise.
- In respect of transportation for reasons other than supply, movement could be in view of export/import, job-work, SKD or CKD, recipient not known, line sales, sales returns, exhibition or fairs, for own use, sale on approval basis etc.

#### 11. Exceptions to e-way bill requirement:

No e-way bill is required to be generated in the following cases

- Transport of goods as specified in Annexure to Rule 138 of the CGST Rules, 2017

- Goods being transported by a non-motorized conveyance;
- Goods being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the SGST Rules, 2017 of the concerned State; and
- Consignment value less than ₹50,000/-

## 12. Consequences of non-conformance to E-way bill rules:

E-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138 of the CGST Rules, 2017, the same will be considered as contravention of rules.

- **Section 122 of the CGST Act, 2017:** A taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of ₹10,000/- or tax sought to be evaded (wherever applicable) whichever is greater.
- **Section 129 of CGST Act, 2017:** Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

## 13. Enforcement Rule 138B & 138 C:

- The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.
- The physical verification of conveyances may also be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf. Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorized by him in this behalf.
- **A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty-four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.**
- Once physical verification of goods being transported on any conveyance has been done

during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

- Where a vehicle has been intercepted and detained for a period ***exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.***

## Conclusion:

The e-way bill provisions under GST will bring in a uniform e-way bill rule which will be applicable throughout the country. The physical interface will pave way for digital interface which will facilitate faster movement of goods. It is bound to improve the turnaround time of vehicles and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.



# GST COMPLIANCE & AUDIT

**CMA T. K. JAGANATHAN**

Practicing Cost & Management Accountant

**G**ST audit is a process of verifying the compliance of a business with the relevant legislation through an examination of the accounts and records of that business and is essential for any tax system.

Every registered person whose aggregate turnover during a financial year exceeds rupees two crore has to get his accounts audited by a chartered accountant or a **cost accountant** and furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9**.

**“Audit”** has been defined in section 2(13) of the **CGST Act, 2017** and it means the examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of the GST Acts or the rules made thereunder.

**Sec 31 (4) of The Karnataka Value Added Tax Act, 2003** states that - Every dealer whose turnover in a year exceeds rupees one hundred lakh shall have his accounts audited by a Chartered Accountant or a Cost Accountant or a Tax Practitioner subject to such conditions and such limits as may be prescribed and shall submit to the prescribed authority a copy of the audited statement of accounts and prescribed documents in the prescribed manner.

On comparison of the audit requirement under the GST and VAT regime, audit under GST regime is more detailed and emphasis is on examination of records, returns and other documents maintained and compliance with the provisions of the GST Acts or the rules made thereunder.

A Compliance audit involves verifying that the GST has been properly accounted for in your business transactions, and to ensure that the information is correctly reported in your GST Returns. This includes checking if your supplies are classified correctly, if GST was properly charged and accounted for, if input tax was claimed correctly, and if the values of supplies, purchases and taxes reported are complete. Compliance audit shall demonstrate the organisation’s process of recording transactions into computer system is correct. .

The primary purpose of compliance audit is to ensure that organizations are well aware and fully compliant with the GST laws and regulations. Compliance audit

will be “advisory” in nature to facilitate the businesses to understand their compliance requirements.

Some of the critical GST compliance requirements are listed below:

- Under GST a tax invoice is an important document. It not only evidences supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). *A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.*
- Schedule II of the CGST Act, 2017 lists a few activities which are to be treated as supply of goods or supply of services. For instance, any transfer of title to goods would be a supply of goods, whereas any transfer of right in goods without transfer of title would be considered as services.
- GST is essentially a tax only on commercial transactions. Hence only those supplies that are in the course or furtherance of business qualify as Supply under GST. Hence any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business as defined in the Act.
- A supplier cannot take ITC of GST paid on goods or services used to make supplies on which recipient is liable to pay tax.
- Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. In other words, reverse charge liability cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.
- Section 35 of the CGST Act, 2017 provides that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of –
  - a. production or manufacture of goods;
  - b. inward and outward supply of goods or services or both;
  - c. stock of goods;
  - d. input tax credit availed;

- e. output tax payable and paid; and
- f. such other particulars as may be prescribed.

In addition, the rules also provide that the registered person shall keep and maintain records of -

- a) goods or services imported or exported; or
- b) supplies attracting payment of tax on reverse charge

along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers and e-way bills.

- **monthly production accounts**, showing the quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof;
- accounts showing the **quantitative details** of goods used in the provision of services, details of input services utilized and the services supplied;
- **separate accounts for works contract showing** –
  - o the names and addresses of the persons on whose behalf the works contract is executed;
  - o description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
  - o description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
  - o the details of payment received in respect of each works contract; and
  - o the names and addresses of suppliers from whom he has received goods or services.
  - o Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter correct entry shall be recorded, and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained. Further each volume of books of account maintained manually by the registered person shall be serially numbered.
  - o Monthly reconciliation of Supplies as per E-way bill and GSTR-1.
  - o E-way bill is to be issued irrespective of whether the movement of goods is caused by reasons of supply or otherwise. In respect of transportation for reasons other than supply, movement could be in view of export/import, job-work, SKD or CKD, recipient not known, line sales, sales returns, exhibition or fairs, for own use, sale on approval basis etc.

- **ITC is not available** in some cases as mentioned in section 17(5) of CGST Act, 2017. Some of them are as follows:

- a. motor vehicles and other conveyances except under specified circumstances.
- b. goods and/or services provided in relation to
  - food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, except under specified circumstances;
  - membership of a club, health and fitness center;
  - Rent-a-cab, life insurance, health insurance except where it is obligatory for an employer under any law;
  - travel benefits extended to employees on vacation such as leave or home travel concession;
- c. Works contract services when supplied for construction of immovable property, other than plant & machinery, except where it is an input service for further supply of works contract;
- d. Goods or services received by a taxable person for construction of immovable property on his own account, other than plant & machinery, even when used in course or furtherance of business;
- e. goods and/or services on which tax has been paid under composition scheme;
- f. goods and/or services used for private or personal consumption, to the extent they are so consumed;
- g. Goods lost, stolen, destroyed, written off, gifted, or free samples;

- The compensation cess is a cess that will be collected on the supply of select goods and or services or both till 1st July 2022. The cess will compensate the states for any revenue loss on account of implementation of GST. This cess will not be payable by exporters and those persons who have opted for compensation levy. The input tax credit of this cess can be only used to pay compensation cess and not the other taxes like CGST, SGCT or IGST.
- Supply of goods or services or both to a Special Economic Zone developer or a unit shall be treated as inter-State supply and shall be subject to levy of integrated tax.
- Deemed exports are not zero rated supplies by default, unlike the regular exports. Hence all supplies notified as supply for deemed export will be subject to levy of taxes i.e. such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT.



- Before supply of goods to job-worker, principal would be required to intimate the Jurisdictional Officer containing the details of description of inputs intended to be sent by the principal and the nature of processing to be carried out by the job-worker. The said intimation shall also contain the details of another job-worker, if any. *The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.*
- Pursuant to section 143 (5) of the CGST Act, 2017, waste generated at the premises of the job-worker may be supplied directly by the registered job worker from his place of business on payment of tax or such waste may be cleared by the principal, in case the job-worker is not registered.
- Under GST laws, the definition of “Works Contract” has been restricted to any work undertaken for an “Immovable Property” unlike the VAT and Service Tax provisions where works contracts for movable properties were also considered.
- As per Rule 56 (14) of the CGST Rules, 2017, every registered person executing works contract shall *keep separate accounts* for works contract showing - (a) the names and addresses of the persons on whose behalf the works contract is executed; (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract; (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract; (d) the details of payment received in respect of each works contract; and (e) the names and addresses of suppliers from whom he received goods or services.

Cost Audit and GST Audit are complimentary to each other and hence Cost Accountants have a natural advantage in GST audit. Though the last date of filing GSTR-9 (Annual Return) is 31<sup>st</sup> December of next financial year, Cost Accountants should ensure that they commence the GST audit concurrently and complete the GST audit along with the cost audit, within a period of one hundred and eighty days from the closure of the financial year. This will facilitate the concerned organization to avail all the input credit of the relevant financial year and ensures that the consumption and inventory values are more accurate.

#### **Anti - profiteering measure –**

- Sec 171 (j) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

The intensification of audits should be a wake-up call to all GST registered businesses to take the necessary steps to assess their indirect tax compliance levels. Failure to comply with GST law requirements can result in significant fines, invite greater scrutiny from GST Department in future, and cause disruptions to the business operations.

Cost Audit ascertains the accuracy of cost accounting records to ensure that they are in conformity with **Cost** Accounting principles, plans, procedures and objective.

GST Audit is the examination of records maintained by the taxable person to verify the correctness of information declared, taxes paid and to assess the compliance with the provisions of GST.

Cost audit aims to identify the undue wastage or losses and ensure that costing system determines the correct and realistic cost of production. Similarly GST Audit ensures that test of unjust enrichment is satisfied by the business in claiming the input tax and payment of appropriate tax.



## CROSS BORDER TAXATION BASE EROSION AND PROFIT SHIFTING (BEPS) – INDIA IS MOVING TOWARDS THE BIGGEST EVER INTERNATIONAL TAX REFORMS

**CMA Mrityunjay Acharjee**

Associate Vice President, Tax and Chief Internal Auditor, Balmer Lawrie Limited

Spreading business across the universe and availing the maximum possible fiscal advantage by routing the flow of capital and repatriation of the return thereon reported to curve out the tax liability to the maximum permissible extent and through that process of availing cross border tax advantage and double taxation avoidance agreement advantage shelter, the effective tax rates of some leading Multinational Corporations (MNCs) are lower than 1% of their revenues. This came out as a big impact on the tax to GDP ratio as well as on the revenue collection situation of all the reported countries and specially Country like India. These reports sparked-off public protests and led to a surge of anger within the taxpayer community, who compared their own effective tax rates with those paid by the supposedly highly-profitable MNCs. It also made the common man wonder how this was achieved.

All the multinational originations (MNCs) used to adopt the sophisticated tax planning practices of MNCs, of reducing their tax base by shifting profits to other countries especially tax havens (i.e. Base Erosion and Profit Shifting (BEPS)). This was being done within the existing legal framework by taking advantage of loopholes/gaps/mismatches in the tax rules of different countries. Action plan has been initiated to curb and restrict these process on a pan world basis and India is not out of the fray.

### ***Origin of the BEPS Project***

In order to curb such malafide practices, the Organisation for Economic Cooperation and Development (OECD) along with G20 countries formulated the BEPS Action Project. This project aims at providing a mechanism to plug such loopholes/gaps/mismatches in international tax laws, thereby providing every country an opportunity to earn their fair share of tax revenues.

The BEPS Project has 15 Action Plans covering the taxability of digital economy, hybrid entities, prevention of treaty abuse, artificial avoidance of Permanent Establishment (PE), linking transfer pricing requirements to value creation, dispute resolution mechanisms, to name a few.

Base erosion and profit shifting (BEPS) refers to tax planning strategies used by multinational companies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity. The project headed by the OECD was initiated by the G20 in 2012.

The international tax system is changing rapidly as a result of coordinated actions by governments and of unilateral measures designed by individual countries, both intended to tackle concerns over base erosion and profit shifting (BEPS) and perceived international tax avoidance techniques of high-profile multinationals. The recommendations of the BEPS Project led by the Organisation for Economic Cooperation and Development (OECD) and published in October 2015 are at the root of much of the coordinated activity, although the timing and methods of implementation vary. At the completion of this scheduled programme, it started to be recognised as the end of phase one of the project and the start of phase two, dealing with outstanding or additional work, implementation and monitoring.

BEPS concerns strategies which aim to move profits to where they are taxed at lower rates and expenses to where they are relieved at higher rates. The result is a tendency to associate more profit with legal constructs and intangible rights and obligations, and reduce the share of profits associated with substantive operations involving the interaction of people with one another. "While these corporate tax planning strategies may be technically legal and rely on carefully planned interactions of a variety of tax rules and principles, the overall effect of this type of tax planning is to erode the corporate tax base of many countries in a manner that is not intended by domestic policy."

### ***BEPS Project***

The 2012 G20 Los-Cabos summit referred to "the need to prevent base erosion and profit shifting" in their final declaration and tasked the OECD to develop an Action Plan. The G20 Leaders endorsed the BEPS Action Plan at the 2013 G-20 St. Petersburg summit. The BEPS Project had been initiated by the G20 countries but it effectively also encompassed the other OECD Member States from the outset. As the project progressed, engagement in the discussions was extended to other large non-OECD states and representatives of developing countries.

### ***Underlying principles of the BEPS Project***

The underlying principle of the BEPS Project is that tax should be paid in the country in which the economic substance and value-addition functions of a transaction are carried out and the tax treaty benefits should not be given to dummy/shell entities set up primarily to take unfair advantage of tax treaties and mis-match in tax rules.

### **Implementation of the BEPS Project**

Implementing the BEPS Action Plan would require amending more than 3,000 bilateral tax treaties. Therefore, to save the participating countries the need to approach each of its treaty partners for the amendment of their bilateral tax treaty, Action Plan 15 of the BEPS Project provides for the signing of a Multi-Lateral Instrument (MLI) to modify various tax treaties simultaneously. Once signed, the MLI would have to be read along with the various bilateral tax treaties. The MLI was issued in November 2016 and a signing ceremony is proposed to be held in June 2017 in Paris.

### **Minimum standards – a measure towards acceptance of BEPS principles**

The MLI provides for certain minimum standards (binding clauses) i.e. clauses to be compulsory adopted by countries signing the MLI. These clauses are binding on all participating countries and cannot be deviated from. In addition, there are certain recommendatory (optional) clauses with alternative options regarding the text and coverage of optional clauses. Participating countries have the freedom to reject the optional clauses or to accept the alternative options as per their requirement. The MLI also contains provisions to deal with mismatches between decisions/options chosen by the participating countries.

The OECD published over 1600 pages in the 'final' reports in relation to all 15 BEPS Action items in October 2015. The UN, IMF, World Bank and OECD are developing toolkits to assist "lowest income countries" in implementing the outcomes of the BEPS Project, so far as they are relevant to those countries or to address related issues. A framework has been agreed for all countries to participate in further BEPS work on an equal footing, broadly if they commit to implementing the minimum standards The BEPS Package consisting of reports on 15 actions designed to be implemented domestically and through tax treaty provisions was agreed at their 2015 G20 Antalya summit. The Action plans for Cross Border taxation are as follows:

- Action 1: Addressing the Tax Challenges of the Digital Economy
- Action 2: Neutralising the Effects of Hybrid Mismatch Arrangements
- Action 3: Designing Effective Controlled Foreign Company Rules
- Action 4: 2 Limiting Base Erosion Involving Interest Deductions and Other Financial Payments
- Action 5: Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance
- Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
- Action 7: Preventing the Artificial Avoidance of Permanent Establishment Status
- Actions 8–10: Aligning Transfer Pricing Outcomes with Value Creation
- Action 11: Measuring and Monitoring BEPS
- Action 12: Mandatory Disclosure Rules

- Action 13: Guidance on Transfer Pricing Documentation and Country-by-Country Reporting
- Action 14: Making Dispute Resolution Mechanisms More Effective
- Action 15: Developing a Multilateral Instrument to Modify Bilateral Tax Treaties

There are 4 minimum standards on BEPS relating to Countering Harmful Tax Practices (Action 5) Treaty Shopping (Action 6), Transfer Pricing Documentation and Country-by-Country Reporting (Action 13) and Dispute Resolution (Action 14). Each of the four BEPS minimum standards is subject to peer review.

In November 2016, the main text on the Multi-Lateral Instrument (MLI) was agreed – this is a single instrument by which countries will be able to amend up to 3,000 bilateral treaties. It includes clauses which relate to the BEPS minimum standards on treaty abuse and dispute resolution, as well as other opt-in/opt-out provisions and options where there are multiple ways to address BEPS.

- In India, the Government has so far released draft Rules in respect of the "Action 13: Guidance on Transfer Pricing Documentation and Country-by-Country Reporting" and a host of other rules are expected shortly.
- The idea is simple. Firms make profits in one jurisdiction, and shift them across borders by exploiting gaps and mismatches in tax rules, to take advantage of lower tax rates and, thus, not paying taxes to in the country where the profit is made.
- There have been concerns across the globe about companies making profits in a particular country but not paying taxes to the local government. The Organization for Economic Cooperation and Development (OECD) states that BEPS is of major significance for developing countries due to their heavy reliance on corporate income tax, particularly from multinational enterprises. It also states that estimates since 2013 conservatively indicate annual losses of anywhere from 4 to 10 per cent of global corporate income tax revenues, or \$100-\$240 billion annually.
- The OECD, under the authority of the Group of 20 countries, has considered ways to revise tax treaties, tighten rules, and to share more government tax information under the BEPS project, and has issued action plans last year. One of the areas discussed was on addressing tax challenges in the digital economy.
- The term sprang into the public consciousness last month, because the 2016 Union Budget announced an 'equalisation levy' of 6 per cent on payments exceeding over ₹1 lakh to online ad services from non-resident entities. Prominent among the companies affected would be new economy multinationals with Indian subsidiaries, like Facebook and Google.
- India is the first country to impose such a levy, post the OECD action plan. A tax panel has recommended expanding the ambit of this levy to cover a wide gamut of transactions including online marketing, cloud computing,



website designing, hosting and maintenance, platforms for sale of goods and services, and online use of or download of software and applications.

### **Inclusive Framework**

The BEPS Package was developed mainly by G20 and OECD countries, but international tax issues affect other countries. At the [2015 G20 Antalya summit](#), it was agreed to open the process to all interested countries and jurisdictions including developing countries by developing an 'Inclusive Framework'. To join the framework countries and jurisdictions are required to commit to the comprehensive BEPS package and its consistent implementation and to pay an annual BEPS Member fee (reduced when applied to developing countries). All members of the Inclusive Framework on BEPS commit to implementing the minimum standards and participating in the peer reviews.

As of April 2017 96 countries had joined the Inclusive Framework. There could be controversy too. Causes for controversy around this issue can be found in "gaps and inadequacies of domestic laws, insufficient controlled foreign company rules, transfer mispricing, [tax treaty](#) abuses or problems arising from hybrid mismatch arrangements".<sup>[10]</sup> The effect on countries hosting investment from multinational companies is laid out in, for example, comments made by [Oxfam](#) South Africa to the [UN](#): "The negative impact of base erosion and profit shifting (BEPS) on [South Africa](#) is evident in the escalating rates of poverty, inequality and unemployment. This continues despite some impressive developmental strides taken by the government. The reason for this is that only 1.6 out of 2 million registered companies in South Africa are active and pay their tax revenue.

### **India Focus on BEPS – Base Erosion & Profit Shifting**

The view of governments across the world is that the current international tax standards have not kept pace with the changes in global business practices. Many countries have perceived the relevance of adopting BEPS as these reports include recommendations for significant changes in key elements of the international tax architecture.

### **India's support towards the BEPS Project**

Since the BEPS Project aims to link tax with value creation, developing countries stand to gain from it. India has been one of the front-runners in the BEPS initiative. It is said that the Indian tax authorities' position on certain tax matters, for which they were criticised in the past (for being narrow-minded and revenue-focused), now find place under the BEPS Action Plans.

### **The effect of BEPS on the Indian tax environment**

At the outset, India has already introduced certain provisions in its domestic tax law to deal with concerns highlighted under the BEPS Action Plan. The imposition of Equalisation Levy, Country-by-Country reporting and Master File requirements under the transfer pricing provisions have their origins in the BEPS Project.

The Finance Bill 2017 proposes special provisions to restrict deduction of interest paid by an Indian company to its associated enterprises where the interest pay-out exceeds INR 10 million in a year. The interest deduction in such cases will be restricted to 30% of the EBITDA of the borrower. A significant impact of the MLI could be felt in the

areas of tax treaty abuse and artificial avoidance of Permanent Establishment (PE) status.

Even before the MLI is signed, India has already amended its tax treaties with Mauritius, Cyprus and Singapore to deal with the artificial avoidance of tax liabilities in India. Once the MLI is signed, a substantial number of the treaties signed by India would be covered under the principles of the BEPS Project. Any aggressive tax planning by using loopholes/gaps in the existing tax treaty provisions could be thwarted by the Indian tax authorities. This would significantly affect intermediate/holding company structures and cash-box companies.

Foreign entities operating in India under 'Commissionaire' models could also witness a significant impact. A commissionaire model involves an Indian entity securing orders in India for a foreign entity such that the ultimate contract of sale is concluded outside India between the foreign entity and the Indian customer. In such cases, under the existing regulations, the Indian entity pays tax on a small margin attributable to the marketing/sales function, commonly on a cost plus margin basis, even though virtually all efforts for securing the contract were carried out in India. The MLI now provides, as an optional clause, that where the Indian entity plays a principal role in securing the contract, it can be considered as a PE of the foreign entity in India. This would require a higher attribution of profits to the Indian entity and increase the tax liability in India. The tax exposure here would also be linked to the transfer pricing policies of the Indian enterprise.

The MLI also contains provisions to deal with situations of artificially splitting contracts between different entities to avoid a PE status in India. The MLI provides for the aggregation of the contracts in such cases to examine the constitution of the PE. This will significantly affect enterprises undertaking Engineering Procurement and Commissioning (EPC) contracts or dealing with specialised installations/works.

### **Preparing for life under BEPS**

Adherence to BEPS requirements would necessitate the evaluation of the functions performed by the Indian enterprise, the value added by it and its comparison to the overall functions performed by the group entities. Based on this evaluation, the PE exposure could be evaluated and the profit to be attributed to Indian operations could be determined based on transfer pricing principles. This activity could also involve amending the business model of the Indian entity to ensure tax optimisation and risk mitigation.

India is actively following the BEPS recommendations and has been bringing amendments in the domestic law to be in line with BEPS regulations. A number of proposals in Indian Finance Act, 2016, are influenced from the recommendations emanating from the final reports of the OECD under its Action Plan on BEPS. These include implementation of Master File and Country-by-Country (CbC) Reporting (in compliance with Action 13), introduction of equalization levy which requires withholding on gross basis for all payments in relation to certain specified digital services (Action 1) and a "Patent Box" tax regime for royalty income (Action 5).

Response to BEPS will have to be managed in a phased manner and will require proactive and timely planning. Companies will have to build consideration of potential BEPS impact into current tax planning and prepare different scenarios for its application.

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

### GOODS AND SERVICES TAX

#### CENTRAL TAX

**Notification No. 3/2018 - Central Tax**

**Dated: 23<sup>rd</sup> January, 2018**

This Notification is in regard to the 5<sup>th</sup> amendment in the CGST Rules, 2017.

Amended rules are in relation to:

Rule 31A - Value of supply in case of lottery, betting, gambling and horse racing.

Rule 55A - Tax Invoice or bill of supply to accompany transport of goods.

Rule 138 - Information to be furnished prior to commencement of movement of goods and generation of e-way bill.

Please go to the link for getting the amendments in elaborated form

<http://www.cbec.gov.in/resources/htdocs-cbec/gst/Notification-3-2018-central-tax-English-New.pdf>

**Notification No.4/2018 – Central Tax**

**Notification No. 5/2018 – Central Tax**

**Notification No. 6/2018 – Central Tax**

**Notification No.7/2018 – Central Tax**

**Dated: 23<sup>rd</sup> January, 2018**

The Notifications are in relation to reduction in late fees. Earlier the Late fee payable for non filing or late filing of Returns were ₹100/day (CGST) & ₹100/day GST which has been reduced to ₹25/day (CGST) & ₹25/day (SGST) subject to a maximum of ₹5000.

SL No.	FORM No.	PARTICULARS	LATE FEE (IF TAX IS PAYABLE)	LATE FEE (FOR NIL RETURN)
(1)	(2)	(3)	(4)	(5)
1	GSTR 1	Details of outward supplies of taxable goods or services or both	₹25/day (CGST) + ₹25/day (SGST)	₹10/day (CGST) + ₹10/day (SGST)
2	GSTR 5	Return for Non-Resident foreign taxable persons	₹25/day (CGST) + ₹25/day (SGST)	₹10/day (CGST) + ₹10/day (SGST)
3	GSTR 5A	Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India	₹25/day (CGST) + ₹25/day (SGST)	₹10/day (CGST) + ₹10/day (SGST)
4	GSTR 6	Input Service Distributor return	₹25/day (CGST) + ₹25/day (SGST)	₹10/day (CGST) + ₹10/day (SGST)

**Notification No.8/2018 – Central Tax**

**Dated: 23<sup>rd</sup> January, 2018**

The due date for filing GSTR 6 for the months of July, 2017 to February, 2018 has been extended till 31<sup>st</sup> March, 2018.

**Notification No. 9/2018 – Central Tax**

**Dated: 23<sup>rd</sup> January, 2018**

According to this Notification, Central Govt. has notified

- [www.gst.gov.in](http://www.gst.gov.in) - as the Common Goods and Services Tax Electronic Portal for
  - facilitating registration
  - payment of tax
  - furnishing of returns
  - computation and settlement of integrated tax

- [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) - as the Common Goods and Services Tax Electronic Portal for

- furnishing electronic way bill.

**Notification No. 10/2018 – Central Tax**

**Dated: 23<sup>rd</sup> January, 2018**

This Notification is an amendment to the Notification No. Notification No. 39/2017 – Central Tax, dated 13<sup>th</sup> October, 2017. According to this Notification the commissioner of the SGST Act & UTGST Act shall act as proper officers for the purpose of sanction of refund except for sub rules (1) to (8) and sub rule (10) Rule 96 (Refund of integrated tax paid on goods or services exported out of India).

## CENTRAL TAX (RATE)

### Notification No. 1/2018-Central Tax (Rate)

Dated: 25<sup>th</sup> January, 2018

This Notification is in relation to clarification regarding GST Rates of certain Services.

#### Clarification on GST Rates

SL No.	Particulars	GST Rate
1.	Housekeeping services provided through electronic commerce operator	5%
2.	Tailoring Services	5%
3.	Services by way of treatment of effluents by a Common Effluent Treatment Plant	12%
4.	Time charter of vessels for transport of goods.	5%
5.	Service of exploration, mining or drilling of petroleum crude or natural gas or both.	12%
6.	Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	18%

Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-01-2018-cgst-rate-english.pdf> to check the notification in detail.

### Notification No. 2/2018-Central Tax (Rate)

Dated: 25<sup>th</sup> January, 2018

This Notification is in relation to relation to certain services which are **exempted** from GST.

SL No.	Particulars
1.	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent.
2.	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.
3.	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.
4.	motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
5.	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
6.	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).

7.	Services by way of fumigation in a warehouse of agricultural produce.
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Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-02-2018-cgst-rate-english.pdf> to check the notification in detail.

### Notification No. 3/2018-Central Tax (Rate)

Dated: 25<sup>th</sup> January, 2018

This Notification is in relation to category of supply of services on which Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services. This notification is an amendment to Notification No. 13/2017. Dated: 28<sup>th</sup> June, 2018.

According to the above Notification, the services "supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017" shall be inserted in the list of Reverse Charge services.

### Notification No. 4/2018-Central Tax (Rate)

Dated: 25<sup>th</sup> January, 2018

This Notification is related to following class of registered persons, namely:

- registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure;
- registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument

### Notification No. 5/2018-Central Tax (Rate)

Dated: 25<sup>th</sup> January, 2018

Central Govt. has exempted GST on intra state supply of services by way of by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

**Notification No. 6/2018-Central Tax (Rate)**  
Dated: 25<sup>th</sup> January, 2018

This Notification is related to changes in GST Rate of goods.

**Table**

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	GST RATE	Schedule
76A	13	Inserted	Tamarind kernel powder-shall be inserted	2.50	I
78A	1404 or 3305	Inserted	Mehendi paste in cones-shall be inserted	2.50	I
219A	.	Substituted	“Corduroy fabrics, velvet fabrics”, shall be substituted;	2.50	I
99A	4418	Inserted	Bamboo wood building joinery	6.00	II
236A	7323 9410	Added	Ghamella	9.00	III
229	Any Chapter	Inserted	Actionable claim in the form of chance to win in betting, gambling, or horse racing in race club”;	14.00	IV

Please go the link for complete list <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-06-2018-cgst-rate-english.pdf>

**Notification No. 7/2018-Central Tax (Rate)**  
Dated: 25<sup>th</sup> January, 2018

This Notification is related to insertions, substitutions of certain goods under Section 11 of CGST Act 2017, Schedule I.

Please go the link for complete list <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-07-2018-cgst-rate-english.pdf>

**Notification No. 8/2018-Central Tax (Rate)**  
Dated: 25<sup>th</sup> January, 2018

This Notification is in relation to fixation of rate of central tax on certain goods of Schedule IV of Notification No. 1/2017- Central Tax (Rate).

Chapter Heading	Description of Goods	Rate
8703	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more.	9%
8703	Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm	9%
8703	Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.	9%
87	All Old and used Vehicles other than those mentioned above	6%

**Notification No. 9/2018-Central Tax (Rate)**  
Dated: 25<sup>th</sup> January, 2018

This Notification is amendment to Notification No. 45/2017 (Central Tax Rate) Dated: 14<sup>th</sup> November, 2017. It is about substitution in the name of the Institutions &

Conditions who seeks to provide concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions.

Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-09-2018-cgst-rate-english.pdf> for detail.

**INTEGRATED TAX**

**Notification No. 1/2018 – Integrated Tax**  
Dated: 23<sup>rd</sup> January, 2018

This Notification is an amendment to the Notification No. Notification No. 11/2017 – Integrated Tax, dated 13<sup>th</sup> October, 2017. According to this Notification the commissioner of the IGST Act shall act as proper officers for the purpose of sanction of refund except for sub rules (1) to (8) and sub rule (10) Rule 96 (Refund of integrated tax paid on goods or services exported out of India).

**Notification No. 1/2018 – Integrated Tax (Rate)**  
Dated: 25<sup>th</sup> January, 2018

This Notification is in relation to clarification regarding GST Rates of certain Services.

**Clarification on GST Rates**

SL No.	Particulars	GST Rate
1.	Housekeeping services provided through electronic commerce operator	5%
2.	Tailoring Services	5%
3.	Services by way of treatment of effluents by a Common Effluent Treatment Plant	12%
4.	Time charter of vessels for transport of goods.	5%
5.	Service of exploration, mining or drilling of petroleum crude or natural gas or both.	12%
6.	Services by way of admission to	18%

	amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	
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Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-01-2018-igst-rate-english.pdf> to check the notification in detail.

**Notification No. 2/2018 – Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

SL No.	Particulars
1.	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent.
2.	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.
3.	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.
4.	Motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
5.	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
6.	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).
7.	Services by way of fumigation in a warehouse of agricultural produce.

Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-02-2018-igst-rate-english.pdf> to check the notification in detail.

**Notification No. 3/2018 – Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is in relation to category of supply of services on which Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services. This notification is an amendment to Notification No. 10/2017. Dated: 28<sup>th</sup> June, 2018.

According to the above Notification, the services “supplied by the Central Government, State

**Notification No. 7/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is related to changes in GST Rate of goods.

**Table**

Sr. No.	Chapter/Heading/Sub-heading/Tariff item	Chapter/Heading/Sub-heading/Tariff item	Description of Goods	GST RATE	Schedule
76A	13	Inserted	Tamarind kernel powder-shall be inserted	5	I
78A	1404 or 3305	Inserted	Mehendi paste in cones-shall be	5	I

Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017” shall be inserted in the list of Reverse Charge services.

**Notification No. 4/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is related to following class of registered persons, namely:

- registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure;
- registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights

as the registered persons in whose case the liability to pay integrated tax on supply of the said services, on the consideration received in the form of construction service shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument

**Notification No. 5/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

Central Govt. has exempted GST on interstate supply of services by way of by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the integrated tax as is leviable on the consideration paid to the Central Government in the form of Central Government’s share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

**Notification No. 6/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

According to this Notification, integrated tax leviable under section 5 of the IGST Act on the supply of services, imported into the territory of India shall be exempted to the extent of the aggregate of the duties of Customs leviable towards royalties and license fees which are included in the transaction value on which the appropriate duties of Customs have been paid.



			inserted		
219A	-	Substituted	“Corduroy fabrics, velvet fabrics”, shall be substituted;	5	I
99A	4418	Inserted	Bamboo wood building joinery	12	II
236A	7323 9410	Added	Ghamella	18	III
229	Any Chapter	Inserted	Actionable claim in the form of chance to win in betting, gambling, or horse racing in race club”;	28	IV

Please go the link for complete list <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-07-2018-igst-rate-english.pdf>

**Notification No. 8/2018- Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is related to insertions, substitutions of certain goods under Section 11 of CGST Act 2017, Schedule I.

Please go the link for complete list <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-08-2018-igst-rate-english.pdf>

**Notification No. 9/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is in relation to fixation of rate of central tax on certain goods of Schedule IV of Notification No. 1/2017- Integrated Tax (Rate).

Chapter Heading	Description of Goods	Rate
8703	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more.	18%
8703	Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm	18%
8703	Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.	18%
87	All Old and used Vehicles other than those mentioned above	12%

**Notification No. 10/2018-Integrated Tax (Rate)**  
**Dated: 25<sup>th</sup> January, 2018**

This Notification is amendment to Notification No. 47/2017 (Integrated Tax Rate) Dated: 14<sup>th</sup> November, 2017. It is about substitution in the name of the Institutions & Conditions who seeks to provide concessional GST rate of 5% on scientific and technical equipments supplied to public funded research institutions.

Please visit for detail. <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-10-2018-igst-rate-english.pdf;jsessionid=6539C6A2D70960564033BF2FFF B31002>

**CIRCULARS & ORDERS**

**Circular No. 29/3/2018-GST**  
**Dated: 25<sup>th</sup> January, 2018**

Clarification regarding applicability of GST on Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol.

GST will be payable by the refinery only on the net quantity of Polybutylene feedstock and Liquefied Petroleum Gas retained by the manufacturer for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol.

**Circular No. 30/4/2018-GST**  
**Dated: 25<sup>th</sup> January, 2018**

Clarification on supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86. It is clarified that:

- only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and
- other goods [falling in any other chapter], would attract the general applicable GST rates to such goods, under the aforesaid notifications, even if supplied to the railways.

**CUSTOMS**

**TARIFF**

**Notification No. 4/2018 – Customs**  
**Dated: 18<sup>th</sup> January, 2018**

This Notification is related to exemption of certain goods from whole of the customs duty leviable as specified in the First Schedule to the Customs Tariff Act, 1975 and from whole of the Integrated Tax Leviable.

Sl. No.	DESCRIPTION OF GOODS
1	the said goods are imported under a Carnet guaranteed by the Federation of Indian Chamber of Commerce and Industry in India, as per provisions of the Customs Convention on the A.T.A. carnet for Temporary Admission of Goods (A.T.A. Convention) done at Brussels on 8th June 1961.
2	the said goods shall be owned by a natural person resident abroad or by a legal person established abroad;

3	the importer of the said goods shall be a natural person resident abroad or a legal person established abroad;
4	the said goods shall be capable of identification on re-exportation;
5	the said goods in all respects conform to the description, quantity, quality, value and other specifications given in the Carnet duly certified by the Customs authorities in the territory of exportation;

Please follow the link for detailed Notification <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-tarr2018/cs04-2018.pdf>

**Notification No. 5/2018 – Customs  
Dated: 25<sup>th</sup> January, 2018**

This Notification is an amendment to Notification No. 50/2017- Customs, dated the 30th June, 2017. The following entries shall be inserted in the Notification No. 50/2017- Customs

SL No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax
“539	88 or any other Chapter	(a) Satellites and payloads; (b) Ground equipments brought for testing of (a)	Nil	Nil
“539 A	88 or any other Chapter	Scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads	5	5

**NON TARIFF**

**Notification No. 06/2018 – Customs (N.T)  
Dated: 18<sup>th</sup> January, 2018**

According to this Notification Central Board of Excise and Customs has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa, shall, with effect from 19<sup>th</sup> January 2018 be the rate mentioned in this Notification.

SCHEDULE-I

SL. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	51.80	50.00
2	Bahrain Dinar	175.35	164.10
3	Canadian Dollar	52.25	50.50
4	Chinese Yuan	10.10	9.75

For the entire table, please visit

<http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt6-2018.pdf;jsessionid=868FAFF584BFA96912F9A5D38951ED5F>

**Notification No. 08/2018 – Customs (N.T)  
Dated: 22<sup>nd</sup> January, 2018**

This Notification is an amendment to Notification No. notification No. 89/2017-Cus(NT) dated 21.09.2017 relating to AIRs of Duty Drawback.

Please visit the link for complete Notification <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt8-2018.pdf>

**Notification No. 09/2018 – Customs (N.T)  
Dated: 23<sup>rd</sup> January, 2018**

This Notification is related to Grant of Presidential Award of Appreciation Certificate to the officers of Customs & Central Excise on the eve of Republic Day, 2018

Please visit the link for complete list <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt9-2018.pdf>

## **ANTI DUMPING DUTY**

This Notification is regarding imposition of anti-dumping duty on the imports of Toluene Di-Isocyanate (TDI), originating in or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

The anti-dumping duty imposed shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of 23rd January, 2018.

## **CIRCULARS & ORDERS**

### **Circular No. 4/2018-Customs Dated: 24<sup>th</sup> January, 2018**

This Circular is related to amendment to the All Industry Rates of Duty Drawback effective from 25.01.2018.

Please visit <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2018/circ04-2018cs.pdf>

## **DIRECT TAX**

### **Updated Notifications, Circulars & Orders**

### **INCOME TAX**

#### **Notification No. 1/2018 Dated: 18<sup>th</sup> January, 2018**

This Notification is related to income arising by the Kolkata commission from West Bengal Electricity Regulatory Commission. Income arising out of:

- a. Income from fund maintained.
- b. Income from Fees collected.

This notification shall be effective subject to the conditions that West Bengal Electricity Regulatory Commission, Kolkata

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2016-2017 and shall apply with respect to the Financial Years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

#### **Notification No. 2/2018 Dated: 18<sup>th</sup> January, 2018**

The Notification is related to amendment to Notification No. S.O. 3129(E), dated the 26th September, 2017. Following is the clause to be substituted:

Income arising from the receipt from National supporters namely Hero Motocorp Ltd., Bank of Baroda, Coal India Ltd., Think and Learn Private Limited, Dalmia Cement Bharat Limited and NTPC Limited.– rupees thirty-nine crore, thirty-nine lakhs, fifty two thousand and two hundred fifty (₹ 39,39,52,250).

#### **Notification No. 3/2018 Dated: 18<sup>th</sup> January, 2018**

This Notification is related to income arising by Central Registry for Securitization Asset Reconstruction and Security Interest of India.

1. fee income from Security Interest transactions;
2. fee income from transactions on Central KYC (CKYC) Records Registry;
3. interest income on fixed deposits and on saving bank account; and
4. RTI application fee.

This notification shall be effective subject to the conditions that Central Registry for Securitization Asset Reconstruction and Security Interest of India

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and shall apply with respect to the financial year 2017-2018.

#### **Notification No. 4/2018 Dated: 19<sup>th</sup> January, 2018**

This Notification is related to further amendments in the amendments in the Tax Return Preparer Scheme, 2006.

Please visit [http://www.incometaxindia.gov.in/communications/notification/notification4\\_2018.pdf](http://www.incometaxindia.gov.in/communications/notification/notification4_2018.pdf)

#### **Notification No. 5/2018 Dated: 22<sup>nd</sup> January, 2018**

This Notification is for M/S Equipment Research Centre. M/S Equipment Research Centre has been categorized under 'Scientific Research Association' from the A.Y 2017-2018 onwards.



# PRESS RELEASE

## INDIRECT TAX

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

### **1) Recommendations made by the GST Council in its 25<sup>th</sup> Meeting held on 18<sup>th</sup> January, 2018 at Delhi for the housing sector**

1. In the meeting held on 18<sup>th</sup> January, 2018, the GST Council has made several important recommendations for the housing sector. The recommendations are expected to promote affordable housing for the masses in the country. The recommendations are discussed below.
2. One of the important recommendations is to extend the concessional rate of GST of 12% (effective rate of 8% after deducting one third of the amount charged for the house, flat etc. towards the cost of land or undivided share of land, as the case may be) in housing sector to construction of houses constructed/ acquired under the Credit Linked Subsidy Scheme for Economically Weaker Sections (EWS) / Lower Income Group (LIG) / Middle Income Group-1 (MIG-1) / Middle Income Group-2 (MIG-2) under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban). Credit Linked Subsidy Scheme is one of the components of Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban). Under this component, subsidy would be provided on home loans taken by eligible urban poor (EWS/LIG/ MIG-I/ MIG-II) for acquisition, construction of house. Credit linked subsidy would also be available for housing loans availed for new construction and for addition of rooms, kitchen, toilet etc. to existing dwellings as incremental housing. The carpet area of houses constructed under this component of the mission would be upto 30 square meters for EWSA, 60 square meters FOR LIG, 120 sqm for MIG I and 150 sqm for MIG II. The benefit of Credit Linked Subsidy Scheme may be taken by the Economical Weaker sections or Low/Middle Income Groups for purchase of houses under any project. The maximum annual income for eligibility of beneficiaries under the scheme can be upto 18 lakhs. It covers a very large section of population which aspires to own a home.
3. So far, houses acquired under CLSS attracted effective GST rate of 18% (effective GST rate of 12% after deducting value of land). The concessional rate of 12% was applicable only on houses constructed under the other three components of the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban), namely (i) In-situ redevelopment of existing slums using land as a resource component; (ii) Affordable Housing in partnership and (iii) Beneficiary led individual house construction /

enhancement. The exemption has now been recommended for houses acquired under the CLSS component also. Therefore, the buyers would be entitled to interest subsidy under the scheme as well to a lower concessional rate of GST of 8% (effective rate after deducting value of land).

4. The Council has also recommended that the benefit of concessional rate of GST of 12% (effective GST rate of 8% after deducting value of land) applicable to houses supplied to existing slum dwellers under the in-situ redevelopment of existing slums using land as a resource component of PMAY may be extended to houses purchased by persons other than existing slum dwellers also. This would make the in-situ redevelopment of existing slums using land as a resource component of PMAY more attractive to builders as well as buyers.
5. The third recommendation of the Council is to include houses constructed for “Economically Weaker Section (EWS)” under the Affordable Housing in partnership (PMAY) under the concessional rate of GST of 8% (effective rate after deducting value of land). This will support construction of houses upto 30 sqm carpet area.
6. The fourth recommendation of the Council is to extend the concessional rate of 12% to services by way of construction of low cost houses upto a carpet area of 60 sqm in a housing project which has been given infrastructure status under notification No. 13/06/2009 dated 30<sup>th</sup> March, 2009. The said notification of Department of Economic Affairs provides infrastructure status to Affordable Housing. Affordable Housing has been defined in the said notification as a housing project using at least 50% of the FAR/FSI for dwelling units with carpet area of not more than 60 sqm. The recommendation of the Council would extend the concessional rate of 8% GST (after deducting value of land) to construction of flats/ houses of less than 60 sqm in projects other than the projects covered by any scheme of the Central or State Government also.
7. In addition to the above, in order to provide a fillip to the housing and construction sector, GST Council has decided to give exemption to leasing of land by government to governmental authority or government entity. [Government entity is defined to mean an authority or board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out any function entrusted by the Central Government, State Government, UT or a local authority]. Also, any sale/lease/sub-lease of land as a part of the composite sale of flats has also been exempted from GST. Therefore, in effect, the government does not levy GST on supply of land whether by way of sale or lease or sub- lease to the buyer of

flats and in fact, gives a deduction on account of the value of land included in the value of flats and only the value of flat is subjected to GST.

It may be recalled that all inputs used in and capital goods deployed for construction of flats, houses, etc attract GST of 18% or 28%. As against this, most of the housing projects in the affordable segment in the country would now attract GST of 8% (after deducting value of land). As a result, the builder or developer will not be required to pay GST on the construction service of flats etc. in cash but would have enough ITC (input tax credits) in his books to pay the output GST, in which case, he should not recover any GST payable on the flats from the buyers. He can recover GST from the buyers of flats only if he recalibrates the cost of the flat after factoring in the full ITC available in the GST regime and reduces the ex-GST price of flats.

8. The builders/developers are expected to follow the principles laid down under section 171 of the GST Act scrupulously.
9. The above changes shall come into force with effect from 25 January 2018.

## **2) Decisions relating to Services in the 25th meeting of GST Council held at New Delhi on 18.01.2018**

The following decisions relating to exemptions/changes in GST rates/ITC eligibility criteria, rationalization of rates/exemptions and clarification on levy of GST on services were taken by the Council in the meeting held at New Delhi on 18.01.2018. The information is being uploaded immediately after the GST Council's decision and it will be subject to further vetting during which the list may undergo some changes. The decisions of the GST Council are being communicated for general information and will be given effect to through Gazette notifications/circulars which shall have force of law.

### **(A) Exemptions / Changes in GST Rates / ITC Eligibility Criteria**

1. To extend GST exemption on Viability Gap Funding (VGF) for a period of 3 years from the date of commencement of RCS airport from the present period of one year.
2. To exempt supply of services by way of providing information under RTI Act, 2005 from GST.
3. To exempt legal services provided to Government, Local Authority, Governmental Authority and Government Entity.
4. To reduce GST rate on construction of metro and monorail projects (construction, erection, commissioning or installation of original works) from 18% to 12%.
5. To levy GST on the small housekeeping service providers, notified under section 9 (5) of GST Act, who provide housekeeping service through ECO, @ 5% without ITC.

6. To reduce GST rate on tailoring service from 18% to 5%.
7. To reduce GST rate on services by way of admission to theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet, from 28% to 18%.
8. To grant following exemptions:
  - i. To exempt service by way of transportation of goods from India to a place outside India by air;
  - ii. To exempt service by way of transportation of goods from India to a place outside India by sea and provide that value of such service may be excluded from the value of exempted services for the purpose of reversal of ITC.The above exemptions may be granted with a sunset clause upto 30<sup>th</sup> September, 2018.

9. To exempt services provided by the Naval Insurance Group Fund by way of Life Insurance to personnel of Coast Guard under the Group Insurance Scheme of the Central Government retrospectively w.e.f. 1.7.2017.
10. To exempt IGST payable under section 5(1) of the IGST Act, 2017 on supply of services covered by item 5(c) of Schedule II of the CGST Act, 2017 to the extent of aggregate of the duties and taxes leviable under section 3(7) of the Customs Tariff Act, 1975 read with sections 5 & 7 of IGST Act, 2017 on part of consideration declared under section 14(1) of the Customs Act, 1962 towards royalty and license fee includible in transaction value as specified under Rule 10 (c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
11. To allow ITC of input services in the same line of business at the GST rate of 5% in case of tour operator service.
12. To reduce GST rate (from 18% to 12%) on the Works Contract Services (WCS) provided by sub-contractor to the main contractor providing WCS to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract GST of 12%. Likewise, WCS attracting 5% GST, their sub-contractor would also be liable @ 5%.
13. To enhance the exemption limit of Rs 5000/- per month per member to Rs 7500/- in respect of services provided by Resident Welfare Association (unincorporated or nonprofit entity) to its members against their individual contribution.
14. To reduce GST rate on transportation of petroleum crude and petroleum products (MS, HSD, ATF) through pipe line from 18% to 5% without ITC and 12% with ITC.
15. To exempt dollar denominated services provided by financial intermediaries located in IFSC SEZ, which have been deemed to be outside India under the various regulations by RBI, IRDAI,

- SEBI or any financial regulatory authority, to a person outside India.
16. To exempt (a) services by government or local authority to governmental authority or government entity, by way of lease of land, and (b) supply of land or undivided share of land by way of lease or sub lease where such supply is a part of specified composite supply of construction of flats etc. and to carry out suitable amendment in the provision relating to valuation of construction service involving transfer of land or undivided share of land, so as to ensure that buyers pay the same effective rate of GST on property built on leasehold and freehold land.
  17. To amend entry 3 of notification No. 12/2017-CT(R) so as to exempt pure services provided to Govt. entity.
  18. To expand pure services exemption under S. No. 3 of 12/2017-C.T. (Rate) so as to include composite supply involving predominantly supply of services i.e. upto 25% of supply of goods.
  19. To reduce job work services rate for manufacture of leather goods (Chapter 42) and footwear (Chapter 64) to 5%.
  20. To exempt services relating to admission to, or conduct of examination provided to all educational institutions, as defined in the notification.  
To exempt services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.
  21. To enhance the limit to ₹2 lakh against Sl. No. 36 of exemption notification No. 12/2017 - C.T. (Rate) which exempts services of life insurance business provided under life micro insurance product approved by IRDAI upto maximum amount of cover of ₹50,000.
  22. To exempt reinsurance services in respect of insurance schemes exempted under S. Nos. 35 and 36 of notification No. 12/2017-CT (Rate).  
[It is expected that the premium amount charged from the government/insured in respect of future insurance services is reduced.]
  23. To increase threshold limit for exemption under entry No. 80 of Notification No. 12/2017-C.T. (Rate) for all the theatrical performances like Music, Dance, Drama, Orchestra, Folk or Classical Arts and all other such activities in any Indian language in theatre GST from Rs.250 to 500 per person and to also extend the threshold exemption to services by way of admission to a planetarium.
  24. To reduce GST on Common Effluent Treatment Plants services of treatment of effluents, from 18% to 12%.
  25. To exempt services by way of fumigation in a warehouse of agricultural produce.
  26. To reduce GST to 12% in respect of mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods.
  27. To exempt subscription of online educational journals/periodicals by educational institutions who provide degree recognized by any law from GST.
  28. To exempt the service provided by way of renting of transport vehicles provided to a person providing services of transportation of students, faculty and staff to an educational institution providing education upto higher secondary or equivalent.
  29. To extend the concessional rate of GST on houses constructed/ acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS) / Lower Income Group (LIG) / Middle Income Group-1 (MIG-1) / Middle Income Group-2 (MIG-2) under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) and low-cost houses up to a carpet area of 60 square metres per house in a housing project which has been given infrastructure status, as proposed by Ministry of Housing & Urban Affairs, under the same concessional rate.
  30. To tax time charter services at GST rate of 5%, that is at the same rate as applicable to voyage charter or bare boat charter, with the same conditions.
  31. To levy concessional GST @12% on the services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, (or alteration of building used for providing (for instance, centralized cooking or distributing) mid-day meal scheme by an entity registered under section 12AA of IT Act.
  32. To exempt services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-20 World Cup in case the said event is hosted by India.
  33. To exempt government's share of profit petroleum from GST and to clarify that cost petroleum is not taxable per se.

#### **(B) Rationalization of certain exemption entries**

1. To provide in CGST rules that value of exempt supply under sub-section (2) of section 17, shall not include the value of deposits, loans or advances on which interest or discount is earned (This will not apply to a banking company and a financial institution including a non-banking financial company engaged in providing services by way of extending deposits, loans or advances).
2. To defer the liability to pay GST in case of TDR against consideration in the form of construction service and on construction service against consideration in the form of TDR to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg.

allotment letter). No deferment in point of taxation in respect of cash component.

3. To tax renting of immovable property by government or local authority to a registered person under reverse Charge while renting of immovable property by government or local authority to un-registered person shall continue under forward charge
4. To define insurance agent in the reverse charge notification to have *the same meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938*, so that corporate agents get excluded from reverse charge.
5. To insert a provision *in GST Rules under section 15 of GST Act* that the value of lottery shall be 100/112 or 100/128 of the price of lottery ticket notified in the Gazette (the same is currently notified in the rate notification).
6. To add, in the GST rate schedule for goods at 28%, actionable claim in the form of chance to win in betting and gambling including horse racing.
7. To insert in GST rules under section 15 of GST Act,-  
*Notwithstanding anything contained in this chapter, value of supply of Betting & Gambling shall be 100 % of the face value of the bet or the amount paid into the totalizator.*

#### (C) Clarifications

1. To clarify that exemption of Rs 1000/- per day or equivalent (declared tariff) is available in respect of accommodation service in hostels.
2. To clarify that fee paid by litigants in the Consumer Disputes Commissions and any penalty imposed by these Commissions, will not attract GST.
3. To clarify that elephant/ camel joy rides are not classified as transportation services and attract GST @ 18% with threshold exemption to small services providers.
4. To clarify that leasing or rental service, with or without operator, of goods, attracts same GST as supply of like goods involving transfer of title in the said goods. Therefore, the GST rate for the rental services of self-Propelled Access Equipment (Boom. Scissors/Telehandlers) is 28%.
5. To clarify that,-
  - 1) Services provided by senior doctors/ consultants / technicians hired by the hospitals, whether employees or not, are healthcare services which is exempt.
  - 2) Hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.
  - 3) Food supplied to the in-patients as advised

by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors is taxable.

6. To clarify that services by way of,-
  - 1) admission to entertainment events or access to amusement facilities including casinos, race-course
  - 2) ancillary services provided by casinos and race-course in relation to such admission.
  - 3) services given by race-course by way of totalisator (if given through some other person or charged separately as fees for using totalisator for purpose of betting, are taxable at 28%. Services given by race-course by way of license to bookmaker which is not a service by way of betting and gambling, is taxable at 18%.

It is proposed to issue notifications giving effect to these recommendations of the Council on 25<sup>th</sup> January, 2018.

#### **3. Recommendation made by the GST Council in its 25th Meeting held on 18th January, 2018 at Delhi for reducing GST rate on admission to amusement parks and ballet etc, from 28% to 18%.**

In the meeting held on 18<sup>th</sup> January, 2018, the GST Council has recommended reduction of GST rate on services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet from 28% to 18%. These services hitherto attracted GST @ 28%. Requests were received from several quarters that amusement parks promote social wellness and beget fun and learning for children and their families in a real active entertainment and therefore, the rate may be reduced to 18%.

The notifications giving effect to the recommendations of the Council will be issued on 25<sup>th</sup> January, 2018. Accordingly, admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet shall be taxable at the lower rate of 18%.

It is expected and hoped that States do not raise the tax on entertainment and amusement levied by the local authorities (Panchayats/ Municipalities/ District Councils) so as to increase the tax burden on the amusement parks. This will ensure that the rate cut in GST is passed on to children.

#### **4. Industry Rates (AIRs) of duty drawback effective from 1.10.2017.**

- 1) Government vide Notification no. 89/2017- Customs dated 21.9.2017 had notified the All Industry Rates (AIRs) of duty drawback effective from 1.10.2017. As a step towards more efficient input tax neutralization on the exports, after considering various representations from trade and industry, Government has enhanced the All Industry Rates of duty drawback for 102 tariff items.



- 2) The export items mainly include marine and seafood products, automobile tyres and bicycle tyres/tubes, leather and articles of leather, yarn and fabric of wool, glass handicrafts, bicycles, etc.
- 3) The revised rates of duty drawback will help address the concerns of these export sectors and make India's exports more competitive in global economy. For further details, notification No. 8/2018-Cus (N.T.) dated 22.01.2018 may be downloaded from the website cbec.gov.in. The enhanced rates of drawback will be effective from 25.1.2018.

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**5. Recommendation made by the GST Council in its 25th Meeting held on 18th January, 2018 at Delhi for granting relief from GST on circus, dance, theatrical performances including drama or dance, award function, pageants, concerts, musical performances, recognised sporting events**

In the meeting held on 18<sup>th</sup> January, 2018, the GST Council has recommended several measures granting relief from GST on a number of goods and services. In one of the important recommendations, the Council has recommended that the threshold limit on price of admission ticket for the purpose of GST exemption on circus, dance, theatrical performances including drama or dance, award functions, pageants, concerts, musical performances, and recognised sporting events may be increased from ₹250 per person to ₹500 per person. The Council has further recommended that admission to planetarium may also be given the benefit of this threshold exemption upto ₹500 per person.

The notifications giving effect to the recommendations of the Council will be issued on 25<sup>th</sup> January, 2018. Accordingly, from the 25 January 2018, admission to circus, dance, theatrical performances including drama or dance, award functions, pageants, concerts, musical performances, recognised sporting events and planetarium upto ₹500 per person shall be exempt. This measure is expected to promote such cultural and sports events in the country.

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**6. Recommendations made by the GST Council in its 25th Meeting held on 18th January, 2018 at Delhi for granting relief from GST on services provided by Resident Welfare Associations to their members**

In the meeting held on 18<sup>th</sup> January, 2018, the GST Council has recommended several measures granting relief from GST on a number of goods and services. One of the important reliefs granted by the Council is to enhance the limit of contribution made by members of a Resident Welfare Association for the purpose of exemption from GST.

Services provided by Resident Welfare Associations (unincorporated body or a registered non-profit entity) to their members were hitherto exempt against contribution of up to an amount of five thousand rupees per month per member. Requests were received from several quarters to enhance the contribution limit of five thousand rupees per month per member for exemption.

The Council has recommended that the limit may be enhanced to ₹7500/- per month per member. As a result,

RWAs shall be required to pay GST on monthly subscription/contribution charged from its members if such subscription is more than Rs. 7500 per member and the annual turnover of RWA by way of supplying of services and goods is also ₹20 lakhs or more. Under GST, the tax burden on RWAs will be lower for the reason that they would now be entitled to ITC in respect of taxes paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fittings etc.) and input services such as repair and maintenance services. ITC of Central Excise and VAT paid on goods and capital goods was not available in the pre-GST period and these were a cost to the RWA.

The notifications giving effect to the above recommendations of the Council will come into force on 25<sup>th</sup> January, 2018. Accordingly, from 25 January 2018, the services provided by Resident Welfare Association to its members against contribution of up to an amount of ₹7500/- per month per member shall be exempt.

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**7. Accepting of Unique Identity Number of Foreign Diplomatic Missions / UN Organizations while making supplies**

Complaints have been received from Foreign Diplomatic Missions / UN Organizations regarding unwillingness of vendors / suppliers / E-commerce websites to record the UIN (Unique Identify Number) while making sales to such Embassies / Missions / Consulates or UN organizations.

It may be noted that supply to Foreign Diplomatic Missions / UN Organizations is like any other Business to Consumer (B2C) supply and will not have any additional impact on the supplier's tax liability. Recording of UIN while making such supplies will enable Foreign Diplomatic Missions / UN Organizations to claim refund of the taxes paid by them in India. Therefore, it is advised that suppliers should not decline to record the UIN of the Embassies / Missions / Consulates or UN organizations on the tax invoice.

Unique Identification Number (UIN) is a 15-digit unique number allotted to any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries. First two digits of the UIN denotes State code where such entity is located.

It may also be noted that recording of the Unique Identity Number on the invoice is a necessary condition under Rule 46 of the CGST Rules, 2017. Contravention of the rule may attract punitive action under the CGST Act, 2017.

Search functionality for UIN is available on the GST Common Portal in "Search Taxpayer" option. On entering UIN and captcha, details of the entity will be available.

**8. Recommendations made during the 25th Meeting of the GST Council held in New Delhi on 18th January, 2018.**

**Policy Changes**

The following recommendations have been made by the GST Council in its 25<sup>th</sup> meeting held today at New Delhi:

1. The late fee payable by any registered person for failure to furnish **FORM GSTR-1** (supply details), **FORM GSTR-5** (Non-resident taxable person) or **FORM GSTR- 5A** (OIDAR) is being reduced to fifty rupees per day and shall be twenty rupees per day for NIL filers. The late fee payable for failure to furnish **FORM GSTR-6** (Input Service Distributor) shall be fifty rupees per day.
2. Taxable persons who have obtained voluntary registration will now be permitted to apply for cancellation of registration even before the expiry of one year from the effective date of registration.
3. For migrated taxpayers, the last date for filing **FORM GST REG-29** for cancellation of registration is being extended by further three months till 31<sup>st</sup> March, 2018.
4. The facility for generation, modification and cancellation of e-way bills is being provided on trial basis on the portal [ewaybill.nic.in](http://ewaybill.nic.in). Once fully operational, the e- way bill system will start functioning on the portal [ewaybillgst.gov.in](http://ewaybillgst.gov.in)
5. Certain modifications are being made to the e-way bill rules which are to be notified nationwide for inter-State movement with effect from 01.02.2018 and for intra-State movement with effect from a date to be announced separately by each State but not later than 01.06.2018.
6. The report and recommendations submitted by the Committee on Handicrafts were also accepted by the GST Council.

**9. RECOMMENDATIONS FOR CHANGES IN GST/IGST RATE AND CLARIFICATIONS IN RESPECT OF GST RATE ON CERTAIN GOODS**

[As per discussions in the 25<sup>th</sup> GST Council Meeting held on 18<sup>th</sup> January, 2018]

These decisions of the GST Council are being communicated for general information, and will be given effect to through Gazette notifications / circulars which only shall have the force of law.

**A. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 28% TO 18%:**

S. No	Chapter/Heading/ Sub-heading/ Tariff item	Description
1	87	Old and used motor vehicles [medium and large cars and SUVs] on the margin of the supplier,

		subject to the condition that no input tax credit of central excise duty/value added tax or GST paid on such vehicles has been availed by him.
2	8702	Buses, for use in public transport, which exclusively run on bio-fuels.

**B. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 28% TO 12%:**

S. No	Chapter/Heading/ Sub-heading/ Tariff item	Description
1	87	All types of old and used motors vehicles [other than medium and large cars and SUVs] on the margin of the supplier of subject to the conditions that no input tax credit of central excise duty /value added tax or GST paid on such vehicles has been availed by him.

**C. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 18% TO 12%:**

S. No	Chapter/Heading/ Sub-heading/ Tariff item	Description	
1	1704	Sugar boiled confectionary	
2	2201	Drinking water packed in 20 litters bottles	
3	2809	Fertilizer grade Phosphoric acid	
4	29 or 38	Bio-diesel	
5	38	The following Bio-pesticides, -	
		S. No	Name of the bio pesticide
		1	Bacillus thuringiensis var. israelensis
		2	Bacillus thuringiensis var. kurstaki
		3	Bacillus thuringiensis var. galleriae
		4	Bacillus sphaericus
		5	Trichoderma viride
		6	Trichoderma harzianum
		7	Pseudomonas fluorescens
		8	Beauveria bassiana
		9	NPV of Helicoverpa armigera
		10	NPV of Spodopteralitura
11	Neem based pesticides		
12	Cymbopogon		
6	4418	Bamboo wood building joinery	

7	8424	Drip irrigation system including laterals, sprinklers
8	8424	Mechanical Sprayer

**D. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 18% TO 5%:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	13	Tamarind Kernel Powder
2	1404/3305	Mehendi paste in cones
3	2711	LPG supplied for supply to household domestic consumers by private LPG distributors
4	88 or any other chapter	Scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads

**E. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 12% TO 5%:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	4601, 4602	Articles of straw, of esparto or of other plaiting materials; basketware and wickerwork

**F. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR INCREASE FROM 12% TO 18%:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	5601 22 00	Cigarette filter rods

**K. CHANGES IN COMPENSATION CESS ON CERTAIN GOODS:**

SL No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present Compensation Cess Rate	Compensation Cess Rate Recommended
1.	8702	Motor vehicles [falling under heading 8702, as it was in excise regime] cleared as ambulances, duly fitted with all fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such vehicles. 10- 13 seater buses and ambulances, subject to specified conditions.	15%	Nil
2	87	Old and used motor vehicles [medium and large cars and SUVs], on the margin of the supplier, subject to the condition that no input tax credit of central excise duty/ value added tax or GST paid on such vehicles has been availed by him.	Applicable rate	Nil
3	87	All types of old and used motor vehicles [other than	Applicable	Nil

**G. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 12% TO 5% WITH NO REFUND OF UNUTILISED INPUT TAX CREDIT:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	5801 37 20	Velvet fabric

**H. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR REDUCTION FROM 3% TO 0.25%:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	7102	Diamonds and precious stones

**I. NIL GST RATE**

- i. Vibhuti
- ii. Parts and accessories for manufacture of hearing aids.
- iii. De-oiled rice bran

**J. LIST OF GOODS ON WHICH GST RATE RECOMMENDED FOR INCREASE FROM NIL TO 5%:**

S. No	Chapter/ Heading/ Sub-heading/ Tariff item	Description
1	2302	Rice bran (other than de-oiled rice bran)

		medium and large cars and SUVs] on the margin of the supplier of subject to the conditions that no input tax credit of central excise duty /value added tax or GST paid on such vehicles has been availed by him.	rate	
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**L. CHANGES IN IGST RATE RECOMMENDED ON CERTAIN GOODS:**

SL No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present IGST Rate	IGST Rate Recommended
1.	88 or any other chapter	Satellites and payloads and Scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads	18%	5%

**M. MODIFICATION IN DEFINITION/ CLARIFICATION IN RESPECT OF CHANGES IN GST/IGST RATES ON GOODS:**

SL No	Chapter/ Heading/ Sub-heading/ Tariff item	Description	Present IGST Rate	Modification/clarification Recommended
1.	27	Poly Butylene Feed Stock & Liquefied Petroleum Gas	18%	The GST to apply only on the net quantity of Poly Butylene Feed Stock or Liquefied Petroleum Gases retained for the manufacture of Poly Iso Butylene or Propylene or di-butyl para cresol respectively, subject to specified conditions.
2	Any chapter	Rail coach industry	Applicable GST rate	Only the goods falling under chapter 86 attract 5% GST rate with no refund of unutilised ITC. Goods falling in any other chapter will attract applicable GST rate under the respective chapters, even if supplied to the Indian railways.
3	2701	Coal rejects	5% + ₹400 PMT Compensation Cess	Coal rejects fall under heading 2701 and attract 5% GST and Rs. 400 PMT Compensation Cess.

It is proposed to issue notification giving effect to the recommendations of the Council on 25<sup>th</sup> January, 2018 to be effective from 00 HRS on 25<sup>th</sup> January, 2018



# JUDGEMENTS

## INDIRECT TAX

### ALLAHABAD HC DIRECTS TO RE-OPEN THE FACILITY TO FILE TRAN-1 IN GST PORTAL

**M/s Continental India Private Limited And Another Vs. Union Of India Thru Secy. And 3 Others (Allahabad High Court)**

**Case Reference: WRIT TAX No. - 67 of 2018**

#### FACT OF THE CASE

1. Petition was filed by M/S Continental India Private Limited because he was unable to file GST TRAN-1 due to technical glitches in the GST portal.
2. Petitioner's application was not entertained on the last date and he has filed his complete application for the necessary transactional credit. Even the petitioner has filed an application for transitional credit manually.
3. When a notice was served on the Government on admitting the petition, they said that the portal is likely to be opened but is unable to say that when the portal is likely to be opened.
4. So, the petitioner seeks a writ of mandamus directing the GST council to make recommendations to the State Government to extend the time period for filing of GST Tran-1.

#### DECISION OF THE CASE

In view of the above, the respondents are directed to reopen the portal. In the event they do not do so, they will entertain the application of the petitioner manually and pass orders on it after due verification of the credits as claimed by the petitioner. They will also ensure that the petitioner is allowed to pay its taxes on the regular electronic system also which is being maintained for use of the credit likely to be considered for the petitioner.

## DIRECT TAX

### GIFT RECEIVED BY HUF FROM MOTHER OF KARTA WOULD ATTRACT INCOME TAX

**Case Reference: ITA No. 3571/Del/2017**

**Date of Pronouncement:-January 5, 2018**

**Subodh Gupta vs Commissioner of Income Tax (CIT)(ITAT Delhi)**

#### FACT OF THE CASE

1. The assessee received 75000 equity shares of a company of Mrs Sneha Gupta, who is mother of the Karta of assessee (Hindu undivided family)
2. The assessee treated the same as gift and this gift should not be covered under section 56 (2) (vii) of the Income Tax Act according to assessee's opinion as that gift was received from mother of the Karta of assessee and mother is "relative".
3. Assessee (HUF) filed its return of income excluding the amount of gift from mother for the relevant assessment year.
4. Thereafter a notice was issued by the PCIT to assessee because according to IT department mother is not a member of HUF. So mother is not covered in the definition of "relative".
5. Therefore, the said gift was added to the total income of the assessee by the IT department and also initiated penalty proceedings under section 271(1) (c) of the Income Tax Act 1961.
6. Then assessee approached the Tribunal on appeal.

#### DECISION OF THE CASE

After considering the material facts and circumstances, the tribunal bench observed that the provisions of section 56 (2) is applicable in the case of the assessee. The bench said that "the 'relatives' mentioned with respect to an individual cannot be considered when the recipient of the property is an HUF. Further, it substitutes the earlier definition of the 'relative' when there was no reference about what constitutes 'relatives' with respect to the HUF. It only talks about 'relatives' with respect to an individual. Therefore, earlier the issue was that if the gift is received by an HUF from its members, probably it was taxable."

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## **PROVISION OF DEDUCTION OF DEPRECIATION ON CAPITAL ASSET USED FOR CHARITABLE PURPOSE**

**CIT vs. Rajasthan And Gujarati Charitable Foundation Poona (Supreme Court)**

**Case Reference: CIVIL APPEAL NO. 7186 OF 2014**

**Date of pronouncement - December 13, 2017**

### **FACT OF THE CASE**

1. Petition & Appeal was filed by Income tax department against the order passed by various high court.
2. In this case the assessee (charitable institution) acquired assets for charitable purpose & full amount of capital expenditure for acquiring assets is treated as application of income for charitable purpose in that very particular year under section 11(1)(a)
3. So the assessing officer further disallowed the amount of depreciation claimed by charitable institution in the subsequent year under section 32 because the assessee enjoyed 100% benefit in the year of acquisition of asset. So, in subsequent year, double benefit can not be allowed.
4. But Court's view is that sec-32 is the only section for granting benefit of depreciation.
5. Though the charitable institution is required to compute it's income under section 11 on commercial principles after providing for allowances for normal depreciation & deduction thereof from gross income of the trust.

### **DECISION OF THE CASE**

In view of the afore-stated judgement of the Bombay High Court, the appeal of income tax department is dismissed & charitable institution is allowed to enjoy the benefit of deduction of depreciation of acquired assets in the subsequent year.

## **PENALTY CANNOT BE IMPOSED IF ASSESSEE PAID TAX DEMANDED BY A.O**

**Pankaj Kumar Gupta vs. ITO (ITAT Lucknow)**

**Case Reference: ITA No.486/LKW/2016**

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

### **FACT OF THE CASE**

1. Assessee submitted his return declaring an income of ₹1,98,040 where capital gain arising from sale of immovable property was not shown as he was unaware of the taxability on the sale of the property.
2. Later, the A.O issued notice under section 148 & impose penalty of ₹70,768 under section 271(1) (c).

3. After receiving that notice under section 148, assessee was very eager to know what mistake had been committed by him & attended the hearing before A.O. Then assessee came to know about the amount of tax payable on income from capital gain & paid taxes immediately on the capital gain accruing to him.
4. Assessee made an appeal to cancel the penalty as he had paid tax immediately without challenging order passed by A.O because there was no loss of revenue from the end of Govt. Department.

### **DECISION OF THE CASE**

In the present case, the mistake from the part of the assessee was bonafide. There was no malafide intention of the assessee to evade tax. As of now, the assessee's appeal for cancellation of penalty was allowed.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDER

Date	Return Type
10 <sup>th</sup> February, 2018	GSTR 1 for the month of Dec, 2017 (for persons with Turnover above 1.5 Crore)
15 <sup>th</sup> February, 2018	GSTR 1 for the month of Oct - Dec, 2017 (for persons with Turnover below 1.5 Crore)
20 <sup>th</sup> February, 2018	GSTR 3B for the month of January, 2018
20 <sup>th</sup> February, 2018	GSTR 5 for the month of January, 2018
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 to February, 2018
18 <sup>th</sup> April, 2018	GSTR 4 for the month of January - March, 2018

## DIRECT TAX CALENDER – FEBRUARY, 2018

### 07.02.2018:

- Due date for deposit of Tax deducted/collected for the month of January, 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.

### 14.02.2018:

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of December, 2017
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of December, 2017

### 15.02.2018:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of January, 2018 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2017.

## DIRECT TAX CALENDER – 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.

## WEBINAR CALENDAR UPTO 15<sup>th</sup> FEBRUARY, 2018

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	02.02.2018 (Friday)	4:00 – 5:00 PM	Budget - Highlights on Taxes	CMA. Vishwanath Bhat
2.	05.02.2018 (Monday)	4:00 – 5:00 PM	Recent Changes in GST - Budget/25 <sup>th</sup> Council Meeting	CMA B Mallikarjuna Gupta
3	09.02.2018 (Friday)	4:00 – 5:00 PM	Refunds and Budgetary Support under GST	CMA Anil Sharma

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

# GLIMPSES OF NATIONAL SEMINAR ON GST

Theme: “Goods and Services Tax-The Sustainability Imperative”



Lighting of the lamp by Shri Shashi Bhusan Behera, Hon'ble Cabinet Minister (Finance, Excise & PE), Govt. of Odisha.



Address by Shri Shashi Bhusan Behera, at the inaugural session



Address by CMA Sanjay Gupta, President ICAI, during the inaugural function



# GLIMPSES OF NATIONAL SEMINAR ON GST

Theme: “Goods and Services Tax-The Sustainability Imperative”



Address by CMA Niranjan Mishra, Chairman – Taxation Committee ICAI, during the inaugural function



Welcome Address of Technical Session - I being delivered by CMA P V Bhattad, Past President, ICAI



Technical Session - II

# GLIMPSES OF NATIONAL SEMINAR ON GST

Theme: "Goods and Services Tax-The Sustainability Imperative"



Technical Session - III



Technical Session - IV



Members of Bhubaneswar Chapter, ICAI and Tax Research Department, ICAI, Kolkata along with Council Members and Resource Persons.

## NATIONAL SEMINAR ON GST – LIST OF PANELIST

	Inaugural session
<b>Welcome Address</b>	<b>CMA Uttam Kumar Nayak</b> Chairman The Institute of Cost Accountants of India-Bhubaneswar Chapter
<b>Key Note Address</b>	<b>CMA Niranjan Mishra</b> Chairman, Taxation Committee The Institute of Cost Accountants of India
<b>Presidential Address</b>	<b>CMA Sanjay Gupta</b> President The Institute of Cost Accountants of India
<b>Inaugural Address</b>	<b>Shri Prasant Satapathy</b> Hon' Secretary Utkal Chamber of Commerce & Industries Ltd.
<b>Address by the Chief Guest</b>	<b>Shri Shashi Bhusan Behera</b> Hon'ble Cabinet Minister (Finance, Excise and Public Enterprises) Government of Odisha
<b>Vote of Thanks</b>	<b>CMA Pranab Kumar Chakrabarty</b> Chairman The Institute of Cost Accountants of India-EIRC

27<sup>th</sup> January, 2018

		<b>TECHNICAL SESSION - I</b> <b>GST Framework – Principles and Process</b>
Welcome Address		<b>CMA Pramodkumar Vithaldasji Bhattad</b> Past President The Institute of Cost Accountants of India
Opening Remarks	<b>Chairman</b>	<b>CMA CS V S Datey</b> Author – Indirect Taxes Pune
Export of goods and international services	<b>Panellist</b>	<b>Shri Ananda Satapathy</b> Additional Commissioner State Taxes, Odisha
Supply – Understanding it more, Time and place of supply		<b>CMA CS. Niranjan Swain</b> Sr. GM (Finance), OPGC Ltd. Bhubaneswar
Valuation- Trade promotion schemes, discounts and related persons		<b>CA. CMA. CS. Sathya Kumar</b> CEO & Founder Tycoon+ Advisors, Chennai
Invoicing - Check points		<b>CMA P K Chand</b> CFO, BCPL Dibrugarh, Assam
Input Tax Credit & Credit distribution- Rules & Tools		<b>CMA T K Jagannathan</b> Expert-Indirect Taxes Bengaluru
	<b>Moderator</b>	<b>CMA Amit Sarker</b> Director – Indirect Taxation Deloitte Haskins & Sells LLP, Mumbai
Vote of Thanks		<b>CMA Damodar Mishra</b> Vice Chairman The Institute of Cost Accountants of India – Bhubaneswar Chapter



<b>TECHNICAL SESSION - II</b> <b>Contract Management - Works &amp; Supply</b>	
Welcome Address	<b>CMA Dr. I Ashok</b> Council Member The Institute of Cost Accountants of India
Opening Remarks	<b>Chairman</b> <b>Shri Saswat Mishra, IAS</b> Commissioner - State Taxes Odisha
Anti-Profiteering	<b>CMA (Dr.) Sanjay R. Bhargave</b> Expert-Indirect Taxes Pune
Managing and negotiating both Works & Supply Contracts - Supplier and Recipient perspective	<b>CMA CS T B Chatterjee</b> Sr. Vice President DCIM Ltd., Kolkata
GST Philosophy for Contract Management, How to avail the benefit of smooth flow of credit	<b>CA. Tarun Kumar Agarwal</b> Expert-Indirect Taxes Bhubaneswar
Import Contracts and its changed scenario,	<b>CMA Mrityunjay Acharjee</b> Sr. VP-Indirect Taxation Balmer Lawrie & Co. Ltd., Kolkata
Impact of GST on Contracts, Continuous supply and stage payment, Do's, Don'ts and Best Practices	<b>CMA Anil Kumar Sharma</b> Expert-Indirect Taxes New Delhi
	<b>Moderator</b> <b>CA. CMA CS. Sathya Kumar</b> CEO & Founder Tycoon+ Advisors, Chennai
Vote of Thanks	<b>CMA Cheruvu Venkataramana</b> Secretary and Treasurer The Institute of Cost Accountants of India -EIRC

**28<sup>th</sup> January 2018**

<b>TECHNICAL SESSION - III</b> <b>Amendments &amp; Legal Framework</b>	
Welcome Address	<b>CMA P. Raju Iyer</b> Council Member The Institute of Cost Accountants of India
Tax Structure, Amendments and notifications	<b>Chairman</b> <b>Shri P K Mohanty, IRS (Retd.)</b> Adviser Govt. of India
Litigation Management: Prevention and Reduction	<b>Shri D N Panda</b> Former Judicial Member, CESTAT Mumbai
Offences and penalties	<b>Panellists</b> <b>CMA Viswanath Bhat</b> Expert-Indirect Taxes Bengaluru
Advance Ruling	<b>CMA CA. Chiranjib Das</b> Expert-Indirect Taxes, Kolkata
	<b>Moderator</b> <b>CMA Shiba Prasad Padhi</b> GST Consultant Bhubaneswar
Vote of Thanks	<b>CMA Tapas Ranjan Swain</b> Secretary The Institute of Cost Accountants of India - Bhubaneswar Chapter.

<b>TECHNICAL SESSION - IV AND VALEDICTORY Refund, E-Way Bill, Assessment &amp; Audit</b>		
Opening Remarks	<b>Chairman</b>	<b>Shri P K Mohanty, IRS (Retd.)</b> Adviser Govt. of India
Address	<b>Special Guest</b>	<b>Shri Saswat Mishra, IAS</b> Commissioner - State Taxes Odisha
E-Way Bill – Understanding	<b>Panellists</b>	<b>CMA Mrityunjay Acharjee</b> Sr. VP-Indirect Taxation Balmer Lawrie & Co. Ltd., Kolkata
Refund – Practical Issues		<b>CMA Amit Sarkar</b> Director – Indirect Taxation Deloitte Haskins & Sells LLP, Mumbai
Audit		<b>CA CMA CS Gopal Krishna Raju</b> Expert-Indirect Taxes Chennai
Assessment		<b>CMA T K Jagannathan</b> Expert-Indirect Taxes Bengaluru
	<b>Moderator</b>	<b>CMA Arindam Goswami</b> Expert-Indirect Taxes Raipur
Address		<b>CMA Shyam Sunder Khuntia</b> <b>Director (Finance)</b> M/s Balmer Lawrie and Co. Ltd., Kolkata
Valedictory Address		<b>CMA Niranjan Mishra</b> Chairman, Taxation Committee The Institute of Cost Accountants of India
Vote of thanks		<b>CMA Himoj Mishra</b> Treasurer The Institute of Cost Accountants of India - Bhubaneswar Chapter

# 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	

## 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>

## BUDGET HIGHLIGHTS OF 2018-19 ON TAXATION

Direct Tax	Indirect Tax
85.51 lakhs new tax payers filed income tax returns in FY17.	Customs Duty on certain products, such as mobile phones and televisions has been increased, to provide a fillip to 'Make in India'
No personal Income Tax changes proposed in Budget	Social welfare surcharge of 10% on imported goods.
Growth in direct taxes (till Jan 15) is 18.7 %	Central Board of Excise and Customs renamed as Central Board of Indirect Taxes and Customs.
Surcharge of 10% on income above ₹50 lakhs but less than ₹1 crore to be continued next year, 15 % on income above Rs 1 crore to also continue.	Import of solar tempered glass for manufacture of solar cells exempted from customs duty.
100% tax deduction is allowed to co-operative societies	Customs duty on crude edible vegetable oils like groundnut oil, safflower seed oil hiked from 12.5% to 30%; on refined edible vegetable oil from 20% to 35%.
Corporate Tax of 25% extended to companies with turnover up to ₹250 crore in financial year 2016-17	Customs duty on sunglasses, cigarette lighter, toys, bus and truck tyres, select furniture hiked.
Senior citizens to get ₹50,000 per annum exemption for medical insurance under Sec 80D	Customs duty on imitation jewellery hiked from 15% to 20%; doubled on all watches to 20%.
₹7.5 lakhs per senior citizen limit for investment in interest-bearing LIC schemes doubled to ₹15 lakhs	Import duty on LCD/LED/OLED panels, parts of TVs hiked to 15%; duty on smart watches, wearable devices, footwear doubled to 20%.
Standard deduction of ₹40,000 allowed for transport, medical reimbursement for salaried tax payers	GST revenue will be received only for 11 months, that will have an effect on balance sheets
Govt to reduce hardships faced in realty deals; no adjustment to be made in case circle rate does not exceed 5 pc of sale consideration	
₹8,000 crore revenue lost due to standard deduction allowed to salaried employees	
₹7,000 crore revenue forgone on account of lower corporate tax for ₹250 crore turnover companies	
₹19,000 crore revenue loss on direct tax in last fiscal	
<b>LONG TERM CAPITAL GAINS EXCEEDING ₹1 L AKH WILL BE TAXED AT 10% WITHOUT INDEXING</b>	
<b>Short term capital tax remains at 15%</b>	
A tax on distributed income at 10%	
Education cess increased to 4% from 3% to collect additional ₹11,000 crore	
Govt makes PAN mandatory for any entity entering into a financial transaction of ₹2.5 lakhs or more.	



## Senior Citizens

- Exemption on interest from bank and post office deposits be **increased to Rs 50k**
- **TDS not to be deducted** on such income **under section 194A**
- **Medical expense** deduction (80D) **raised to Rs 50,000**
- For certain illnesses, **medical expense deduction (80DDB) raised to Rs 1 lakh**



## Operation Green

To promote Farmer Producers Organizations (FPOs), agri-logistics, processing facilities and professional management

**Rs 500 crore**



## Education

- Rs 1 lakh cr to revitalise and upgrade education sector
- Eklavya schools by 2022 for blocks with above 50% ST population
- Black board to digital board schools by 2022
- 1000 PM Research Fellows every year



## Aviation

- To expand airport capacity by 5 times to 1 bn trips a year
- Rs 60 crore allocated to kickstart initiative
- Udan scheme to connect 64 unconnected airports





## Rail Budget

- Railways capex pegged at Rs 1.48 lakh cr
- Govt to eliminate 4267 unmanne rail crossings in 2 years
- All stations with 25,000+ footfalls have escalators
- 11,000cr for Mumbai rail network  
Rs 17,000cr for Bengaluru metro



## Employees' Provident Fund

- Govt to contribute **12%** of wages of new employees for **next 3 years** in all sectors
- Women employees' contribution for first **3 years reduced to 8%**. Employers' share unchanged



## Roads & Highways

To develop **35,000 km** under **phase 1** as part of Bharatmala project

**Rs 5.35 lakh crore**



## Jai Kisan

- Agricultural market fund of Rs 2,000 crore
- Kharif MSP at 1.5 times produce price
- Food processing sector allocation almost doubled to Rs 1400 cr
- Rs 10,000 cr for fisheries & aquaculture, animal husbandry funds
- Rs 500 cr for Operation Green



## 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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