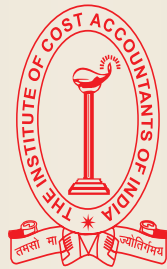


TAX

Bulletin



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

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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.”

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शिव प्रताप शुक्ल
Shiv Pratap Shukla



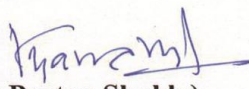
वित्त राज्य मंत्री
भारत सरकार
नई दिल्ली-110001
MINISTER OF STATE FOR FINANCE
GOVERNMENT OF INDIA
NEW DELHI-110001

MESSAGE

I am delighted to know that the Institute of Cost Accountants of India is publishing "Tax Bulletin" fortnightly beginning from 1st October, 2017. The proactive initiative of the Institute in supporting the Government is highly appreciated. I compliment CMA Sanjay Gupta, President of the Institute and entire team of the Institute for their commendable efforts.

I am sure, this publication would be a ready resource for professionals, industry and other stakeholders in the field of GST. It has also been brought to my notice that the Institute is conducting a lot of seminars, programmes and workshops on GST not only for their members but also for public at large, which is a commendable contribution from the Institute in supporting the Government initiatives.

I wish the endeavour of the Institute all success.


(Shiv Pratap Shukla)

New Delhi.
29.09.2017

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MESSAGE FROM THE PRESIDENT

I am pleased to note that the Taxation Committee of the Institute is bringing out its fortnightly “Tax Bulletin”. After implementation of GST in India on 1st July 2017, there are many issues which need clarifications by the members of the Institute. The Bulletin would feature information on recent developments in taxation both direct and indirect taxes including GST, rulings, determinations, announcements and other issues such as filing of returns, settlement of Input Tax Credit availed, anti-profiting measures, refunds, maintenance of record under CGST, IGST and SGST.

Recently the Institute has taken various initiatives on GST including launching of GST help desk through which queries on GST from stakeholders are responded by email within 48 hours of receipt, bringing information on GST and other taxes through emails on analysis of GST Act, Rules, Rate of Services and Service Accounting Code etc. Institute has also brought many publications on GST, conducted seminars and conferences on GST by the Institute, Regional Councils, Chapters and webinars in GST to familiarize the provisions of GST and practical issues. I sincerely hope that members of Institute, Government officials and other stakeholders will find the Tax Bulletin helpful in updating the knowledge on the subject.

I congratulate CMA Niranjana Mishra, Chairman - Taxation Committee for visualizing the “Tax Bulletin”, other members of the Taxation Committee and Tax Research Department of the Institute for bringing out its fortnightly Tax Bulletin. I wish the Taxation Committee grand success in all of its initiatives. The Institute welcomes suggestions to improve the Tax Bulletin.

I extend my best wishes to the members and their families on the occasions of Durga Puja, Dussehra, Gandhi Jayanti and Diwali.

CMA Sanjay Gupta

2nd October, 2017



MESSAGE FROM THE VICE PRESIDENT

I am happy to note that the Taxation Committee of the Institute is bringing out its “Tax Bulletin” on fortnightly basis for members of Institute and other stakeholders. This is very good initiative by Taxation Committee. I am also delighted to note that the Tax Bulletin will be comprehensive and will include the latest developments, announcements and amendments for both direct and indirect taxes. This will serve the stakeholders with very good knowledge and information particularly when the stakeholders need the information on GST very frequently as every day we witness one or other notification on GST. The actual impact and effect of GST on various items may be gauged after sometime but we know that the overall impact on Indian Economy will be very good.

India offers a well-structured tax system for its population. Taxes are the largest source of income for the Government. This money is deployed for various purposes and projects for the development of the nation. Taxes are determined by the Central and State Governments along with local authorities like municipal corporations. The government cannot impose any tax unless it is passed as a law.

With the globalisation of all economic activities, the industries both in manufacturing and service sector have recognised the potential of Cost & Management Accounting Professionals. The specialised knowledge and skill of the professional Members of the Institute are being given due recognition in different areas of Direct and Indirect Taxation.

I congratulate CMA Niranjan Mishra, Chairman - Taxation Committee for bringing “Tax Bulletin” for taking very good initiative which shall go long way. I also congratulate other members of the Taxation Committee and Tax Research Department of the Institute for their efforts to bring the Tax Bulletin in the present form. My best wishes to Taxation Committee for its all future initiatives in the taxation field.

My best wishes to members and their family on the occasions of Durga Puja, Dussehra, Gandhi Jayanti and Diwali.

CMA H Padmanabhan

2nd October, 2017



MESSAGE FROM CHAIRMAN – TAXATION COMMITTEE

Dear Colleagues,

It is my great pleasure and privilege to place before you the fortnightly "Tax Bulletin". This is a publication of The Institute of Cost Accountants of India. The Tax Bulletin is an informational document designed to provide general guidance in simplified language on the topics of interest to taxpayers/practitioners.

The Tax Bulletin would be containing the latest tax rulings, issuances, circulars, opinions and decisions from Government agencies such as CBEC, CBDT, GST Council to name a few. Each item is summarized in the highlights section for easy reference. The said Bulletin is widely distributed to State/Center Government Dept, Trade and Industry Associations and others. It will also be made available in Tax Portal of Institute's website soon and anyone can also subscribe to get it in e-mail.

Our Institute had been prescribing various Cost Accounting Standards, which had helped the both the Revenue Authorities and Tax Payers for arriving at fair assessment under direct-indirect tax laws. The Taxation Committee of the Institute is mandated to serve the needs of the society and CMAs would be a major facilitator to spread Tax awareness amongst the mass besides transforming them to be Tax compliant. It is always observed by the Institute that, cost information is the only relevant information available to both tax administrators and tax payers for making fair assessment under tax laws".

Coming to GST, unlike many others, I firmly believe that Implementation of GST in India shall boost economic growth and overall development of industries. It would also be an engine for generation of employment in India as simplicity and transparency under the GST law would definitely promote and motivate investors to undertake "Make in India" initiative, the prime mission set by our Honorable Prime Minister, Shri Narendra Modiji.

This bulletin will be certainly useful for the members of the Institute to be familiar with forthcoming Tax Updates. We would ensure 100% statutory compliances, smooth and efficient tax mechanism and also will ensure the benefit will be passed on in the hands of consumer - public at large.

I express my sincere thanks to CMA Sanjay Gupta, Honorable President of Institute of Cost Accountants of India and thankful to my colleagues in the Council for reposing confidence in me to serve the profession as Chairman of the Taxation Committee and also express my sincere gratitude to all committee members and colleague including team - TRD.

The Taxation Committee of the Institute express gratitude to all the well-wishers for their valuable contributions in the process of making and development of this Bulletin. The Institute and its esteemed members pledge to rise to the need of the economy and the Nation at large. CMAs would be a major facilitator to spread Tax awareness amongst the mass besides transforming them to be Tax compliant.

Valuable suggestions and constructive feedback from users and readers would be highly appreciated, gratefully acknowledged and suitably incorporated.

Thank You.

CMA Niranjan Mishra

2nd October, 2017

TAXATION COMMITTEE 2017 – 2018



CMA Niranjana Mishra
Chairman



CMA Manas Kumar Thakur
Member



CMA Amit Anand Apte
Member



**CMA Ashok Bhagawandas
Nawal, Member**



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CMA Dr. S. R. Bhargave
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CMA V. S. Datey
(Co-opted), Member



CMA N. Swain
(Co-Opted), Member

Secretary

CMA Arup Sankar Bagchi, Director (Finance)

THANKS & GRATITUDE

ACKNOWLEDGMENTS

On behalf of the Institute, Tax Research Department would like to express sincere thanks and gratitude towards all the Resource Persons named below. We are pleased to have your valued expertise in the field of Direct and Indirect taxation. Your valued co-operation is solicited.

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ELECTRONIC WAY BILL FOR TRANSPORT OF GOODS IN GST

CMA V. S. DATEY

Background

On introduction of GST w.e.f. 1-7-2017, many States have removed the physical barriers at State border for transport of goods by road. This has speeded up movement of goods to some extent.

In absence of physical restrictions on movement of goods, some control is essential to ensure that goods are not clandestinely removed and sold. Hence, a system of e-way bill is proposed to be introduced.

Provisions relating to E-way Bill have been made by amending rule 138 and inserting rules 138A to 138B in CGST Rules, 2017. These rules have been inserted vide Notification No. 27/2017 - Central Tax dated 30-8-2017.

However, these rules will be made effective from date to be notified. Earlier, it was announced that the provisions of e-way bill will be effective from October, 2017. This is possible only if GSTN system is ready by that time. Looking at the pathetic situation of GSTN, it is doubtful if that system will be ready by October, 2017. If the e-way bill system is enforced in haste, then there will be chaos as is presently happening in filing of GSTR-3B returns and other forms.

We can only hope and pray that provisions of e-way bill are made effective only after GSTN system is ready and tested.

It is also doubtful whether transporters are equipped to follow these procedures.

Overview of the provisions of e-way bill

The salient aspects of e-way bill provisions are as follows -

- The provisions apply when value of consignment exceeds ₹50,000.
- Consignor who is registered is required to upload information in Part A of form GST EWB-01, electronically, before movement of goods commences.
- If consignor is not registered but consignee is registered, the consignee is required to upload the details electronically [rule 138(1) of CGST Rules]
- If goods are transported in own conveyance or by air, railways or vessel, the consignor/consignee is also required to generate e-way bill form GST EWB-01 electronically on the common portal after furnishing information in Part B of form GST EWB-01 [rule 138(2) of CGST Rules]
- If goods are transported by road by transporter, the consignor/consignee shall furnish information relating to transporter in Part B of form GST EWB-01. Transporter will generate the e-way bill [rule 138(3) of CGST Rules]
- If the transport is less than 10 Kms from place of supplier to place of transporter, details of conveyance may not be furnished. In many cases, this limit is not sufficient.
- On submission of such information, a unique e-way bill number (EBN) will be generated by system.
- If goods are transhipped from one conveyance to other, details have to be submitted in form GST EWB-01 [rule 138(5) of CGST Rules]
- If consignments are consolidated in one conveyance, consolidated e-way bill in form GST EWB-02 should be generated [rule 138(6) of CGST Rules]
- If consignor or consignee does not generate any form, transporter himself must generate form GST EWB-01 [rule 138(7) of CGST Rules]
- The e-way bill generated is valid for one day transport of goods is less than 100 Km. Further, one additional day is allowed for every 100 Kms after first 100 Km. If goods could not be transported within that period, fresh e-way bill should be generated [rule 138(10) of CGST Rules]
- Exemptions have been provided from provisions of e-way bill in case of transport of exempted goods, goods under customs clearance, LPG, kerosene, pearls, diamonds, jewellery, currency, coral and household effects.
- Invoice Reference Number can be generated by uploading invoice and then physical copy of invoice may not be carried. This number will be valid for 30 days [rule 138A(2) of CGST Rules]
- Transporters may be asked to obtain unique Radio Frequency Identification Device (RFID) [rule 138A(4) of CGST Rules]
- Road checks may be made and reporting of road checks has been provided [rule 138C of CGST Rules].
- If a vehicle is intercepted and detained for more than 30 minutes, the transporter may upload the said information in form GST EWB-04 on the common portal [rule 138D of CGST Rules] [not clear what action will be taken and by whom]

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

The consignor is required to furnish specified details before movement of goods commences, if value exceeds ₹50,000 electronically in Part A of form GST EWB-01. If the consignor is unregistered, the consignee is required to furnish the information.

Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees - (i) in relation to a supply; or (ii) for reasons other than supply; or (iii) due to inward supply from an unregistered person, shall, before commencement of such movement, furnish information relating to the said goods in Part A of form GST EWB-01, electronically, on the common portal [rule 138(1) of CGST Rules]

Movement deemed to be caused by consignee if goods supplier by unregistered person - If the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [*Explanation 1* to rule 138(3) of CGST Rules]

Generation of e-way bill if transport in own vehicle or hired vehicle or by rail, vessel or air

If the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in form GST EWB-01 electronically on the common portal after furnishing information in Part B of form GST EWB-01 [rule 138(2) of CGST Rules]

Though the word used is 'may', really he must generate such e-way bill.

The information in Part A of form GST EWB-01 shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel [*Explanation 2* to rule 138(3) of CGST Rules] [Really, even otherwise, this is obvious].

Generation of e-way bill by transporter if transport is by road

If the e-way bill is not generated under rule 138(2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of form GST EWB-01 on the common portal.

The e-way bill shall be generated by the transporter on the common portal on the basis of the information furnished by the registered person in Part A of form GST EWB-01 [rule 138(3) of CGST Rules]

Generation of e-way bill by transporter if not generated by consignor - If the consignor or the consignee has not generated form GST EWB-01 in accordance with the provisions of - Rule 138(1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods [rule 138(7) of CGST Rules]

Option to generate e-way bill even if value less than ₹50,000 - The registered person or the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees [first proviso to rule 138(3) of CGST Rules]

Unregistered person can also generate e-way bill - If the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in form GST EWB-01 on the common portal in the manner specified in this rule [second proviso to rule 138(3) of CGST Rules].

E-way Bill generated is valid all over India - The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory [rule 138(13) of CGST Rules]

Relaxation if goods transported from place of consignor to transporter and distance less than 10 Km

If the goods are transported for a distance of less than ten kilometres within the State or 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 B of form GST EWB-01 [third proviso to rule 138(3) of CGST Rules]

Ten Kilometers relaxation not sufficient in many cases - Ten Kilometers relaxation is really not sufficient in many cases. In many cases, the railway yard or port or airport or godown of transporter may be much beyond 10 Kms. In big cities, much more allowance is required.

Generation and cancellation of e-way Bill through SMS

The facility of generation and cancellation of e-way bill may also be made available through SMS – Explanation to rule 138(14) of CGST Rules.

Generation of e-way bill number (EBN) by GSTN

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) will be generated by GSTN. This number shall be made available to the supplier, the recipient and the transporter on the common portal [rule 138(4) of CGST Rules].

Procedure by transporter after generation of e-way bill

The procedure to be followed by transporter is as follows -

Transshipment of goods to another conveyance - 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 conveyance in the e-way bill on the common portal in form GST EWB-01:[rule 138(5) of CGST Rules]

Details of conveyance not required for final delivery to consignee - If the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill [proviso to rule 138(5) of CGST Rules]

Ten Kilometers relaxation is really not sufficient in metropolitan cities. In big cities, more allowance is required.

Multiple consignments in one conveyance - After e-way bill has been generated in accordance with the provisions of rule 138(1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in form GST EWB-02 maybe generated by him on the common portal prior to the movement of goods [rule 138(6) of CGST Rules]

Supplier can use the information to furnish details in GSTR-1 return

The information furnished in Part A of from GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in form GSTR-1 [rule 138(8) of CGST Rules]

Information to unregistered supplier - If the information has been furnished by an unregistered supplier in form GST EWB-01, he shall be informed electronically, if the mobile number or the email is available [proviso to rule 138(8) of CGST Rules]

Cancellation of e-way bill

If an e-way bill has been generated under this rule 138 of CGST Rules, 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, within 24 hours of generation of the e-waybill:

Thus, if there is accident to truck, the driver should first rush to cancel e-way bill before sending injured persons to hospital and even before informing police and owner of vehicle about accident !

An e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [rule 138(9) of CGST Rules]

Validity of e-way bill generated

An e-way bill or a consolidated e-way bill generated under this rule shall be valid as follows – (1) Upto 100 Km – one day[really only 24 hours] (2) One day for every 100 Km or part after first 100 Km[each day of 24 hours] [rule 138(10) of CGST Rules]

The Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Meaning of ‘relevant date’ for purposes of rule 138(1) - Thee “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 – *Explanation* to rule 138(1) of CGST Rules.

Fresh generation of e-way bill if validity expired - Under circumstances of an exceptional nature, if 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 from GST EWB-01 [second proviso to rule 138(10) of CGST Rules].

Intimation of acceptance of details by recipient

The details of e-way bill generated under rule 138(1) shall be made available to the recipient on the common portal, if he is registered, He shall communicate his acceptance or rejection of the consignment covered by the e-way bill [rule 138(11) of CGST Rules.]

Where the recipient referred to in rule 138(11) 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.

Note that the communication is not of receipt of goods by recipient (consignee) but only acceptance of details as contained in the e-way bill. What it really means that his acceptance as the goods are meant for him only and his name, as recipient, is not false or incorrect.

Transport of goods for which e-way bill is not required

No e-way bill is required to be generated in following cases [rule 138(14) of CGST Rules].

- (a) The goods being transported are specified in Annexure (see below)
- (b) The goods are being transported by a non-motorised conveyance.

(c) The goods are 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; and
(d) In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the GST Rules of the concerned State. Thus, each State has been delegated powers to grant exemptions from provisions relating to e-way bill.

Goods for which e-way bill not required as per Annexure to rule 138(1)

Following items are included in Annexure to rule 138(10). For transport of these goods, e-way bill is not required.

- All items exempted under Notification No. 2/2017-CT (Rate) and 2/2017-IT (Rate) both dated 28-6-2017. The major among them are as follows - Fresh Meat, Fish, Chicken, Eggs, Milk, Butter Milk, Curd, Natural Honey, Fresh Fruits And Vegetables, coffee beans, wheat, rice, Flour, Besan, Bread, Prasad, Salt, Bindi, Sindoor, Stamps, Judicial Papers, Printed Books, Newspapers, Bangles, Handloom, Pooja equipment, jute, khadi, national flag, raw silk.
- Passenger baggage (9803)
- Specified Puja samagri
- Liquefied petroleum gas (LPG) for supply to household and non domestic exempted category (NDEC) customers
- Kerosene oil sold under PDS
- Postal baggage transported by Department of Posts
- Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
- Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
- Currency
- Used personal and household effects
- Coral, unworked (0508) and worked coral (9601).

Some more exemptions are required – The relaxations are good but not sufficient. Relaxations are required in following cases – (a) transporting goods from port, airport or railway yard to factory or godown of taxable person (b) Sending material for job work or repairs within the city (c) Sending cranes, bull dozers, cement mixers to site (d) Sending construction material to and from site.

Documents and devices to be carried by a person-in-charge of a conveyance

The person in charge of a conveyance shall carry - (a) the invoice or bill of supply or delivery challan, as the case may be; and (b) 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 [rule 138A (1) of CGST Rules]

Invoice Reference Number (IRN) can be obtained by supplier electronically

A registered person (supplier) may obtain an Invoice Reference Number (IRN) from the common portal by uploading on the 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 [rule 138A (2) of CGST Rules].

If such IRN is obtained, it is not necessary for transporter to carry physical copy of tax invoice, unless specifically ordered.

Commissioner can require that physical copy of tax invoice of delivery challan should be carried – Even if rule 138A(1)(b) of CGST Rules enable dispensing with carrying physical copy of tax invoice, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill-(a)tax invoice or bill of supply or bill of entry; or(b) a delivery challan, where the goods are transported for reasons other than by way of supply [rule 138A(5) of CGST Rules]

Auto population of information in part A if IRN obtained - If the registered person uploads the invoice under rule 138A(2), the information in Part A of form GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in form GST INV-1 [rule 138A(3) of CGST Rules].

Radio Frequency Identification Device (RFID) by specified transporters

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 (RFID) prior to the movement of goods [rule 138A(4) of CGST Rules].

Road checks and Verification of documents and conveyances

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 [rule 138B(1) of CGST Rules]

The Commissioner shall get Radio Frequency Identification Device readers (RFIDR) installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device [rule 138B(2) of CGST Rules]

The physical verification of conveyances shall be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf:

Physical verification on basis of specific intelligence - On receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf [rule 138B(3) of CGST Rules]

Inspection and verification of goods during road checks

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 [rule 138C(1) of CGST Rules]

No further verification in same State if once verification done - the 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 [rule 138C (1) of CGST Rules]

Transporter can upload details if vehicle detained for more than 30 minutes

If 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 [rule 138D of CGST Rules]



ANTI PROFITEERING UNDER GST

CMA DR. SANJAY R. BHARGAVE

Background

The structure of indirect taxes in India , till 30th June 2017 was based on the three lists in Seventh Schedule to Constitution of India i.e Union List, State List and Concurrent List wherein powers of the Central Government, State Governments and Local Bodies were unambiguously defined. These lists were mostly based on Government of India Act, 1935 and therefore were based on the situation prevailing in 1935. The structure became outdated due to changes in situations, technology etc.

To remove the defects of the prevailing tax structure and as a process of Tax Reforms GST has been introduced from 1st July 2017.

1. Major defects in earlier structure of indirect taxes.

1.1 Following can be summarized as major defects in structure of indirect taxes, as existing upto 30.06.2017.

- Central Sales Tax (CST) was payable @ 2% for every movement of goods from one State to other. Even in case of stock transfers or branch transfers, there is incidence of tax as input service credit (set off) of input taxes was not fully available.
- Cascading effect of taxes could not be avoided due to CST and Entry Tax. State Vat was payable on Central Excise element also.
- Movement of goods in European Union (EU) is free across all countries without any incidence of tax. However, in India, movement of goods from one State to other was not tax free due to entry tax.
- India did not have a national market due to invisible barriers of Central Sales Tax, Entry Tax and State Vat and visible barriers of check posts.

- Millions of man-hours and truck hours were lost at check posts. Besides, huge corruption is involved.
- Central Government could not impose tax on goods beyond manufacturing level. State Government could not impose Service Tax.
- Over the years, distinction between goods and services had become hazy, due to which there is overlapping of State Vat and Central Service Tax on transactions like works contract, food related services (restaurants, outdoor catering, mandap services), Software, IPR Related services, lottery, SIM cards, operating lease / renting of goods etc.
- Same transaction was taxed both by Central and State Government which created confusion, litigation and double taxation in many cases.
- Each State had its own State Vat Laws with different provisions, different Vat rates different forms and difference procedures. Thus, taxable person having business in more than one States found it extremely difficult to keep pace with tax laws of each State.

1.2 To overcome the defects in the indirect tax system and following the worldwide trend of Goods and Service Tax (GST), the Government of India also, as a part of Tax Reform process, moved to GST on 1st July 2017. It is a very bold and progressive step taken by the Government. As per Statement of Objects and Reasons appended to One Hundred and First Constitution Amendment Bill, the object of GST is

- (a) to have common market, and
- (b) avoid cascading effect of taxes.

1.3 The GST law contains a unique provision on anti profiteering measure to curb the practice of enjoying unjust enrichment in terms of profit arising out of implementation of GST in India. The Government wants that GST should not lead to general inflation , as feared by the common man and for this it was necessary to set up a mechanism to ensure that benefits arising out of GST implementation are passed on to the customer.

1.4 Section 171 of the Central Goods and Services Tax Act, 2017 provides for Anti Profiteering measure. As per Sub Section 1 of Sec 171 of CGST ACT, 2017, ***“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.”***

1.5 Thus it makes mandatory for every supplier (taxpayer) to pass on the benefits arising out of following to the recipient of the goods or services or goods and services.

- Reduction of rate of tax on any supply of goods or services.
- Benefit of input tax credit.

1.4.1 The increase or decrease in cost on account of other than tax rate and input tax credit is not to be considered for the purpose of anti profiteering.

2. Taxes Subsumed in GST and Cesses Abolished

2.1 Following Central and State Taxes levied in old system are subsumed in GST

Central Taxes

- ✓ Central Excise Duty,
- ✓ Additional Excise Duties on Goods of special importance, Textile
- ✓ Countervailing Duty and Special Additional Duty levied under Customs Act.
- ✓ Excise Duty levied under the Medicinal and Toilet preparations (Excise Duties) Act, 1955.
- ✓ Service Tax,
- ✓ Central Surcharges and Cesses on Excise/Service tax

States Taxes

- ✓ State VAT/Sales Tax, Purchase Tax
- ✓ Entertainment tax (unless it is levied by the local bodies), Central Sales tax (levied by Centre and collected by States)
- ✓ Octroi and Entry Tax, Luxury Tax, Taxes on lottery, betting and gambling.
- ✓ State Surcharges and Cesses

2.2 Cesses Abolished Since 2015.

S. No.	Name of the Cess	Date of Abolition
1	Education Cess on taxable services	01.06.2015
2	Secondary & Higher Education Cess	01.06.2015
3	Education Cess on excisable goods	Exempted with effect from 01.03.2015. Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act, 2017.
4	Secondary & Higher Education Cess on excisable goods	Exempted with effect from 01.03.2015. Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act, 2017.
5	The Mica Mines Labour Welfare Fund Act, 2016.	21.05.2016
6	The Salt Cess Act, 1953	21.05.2016
7	The Merchant Shipping Act, 1958	21.05.2016
8	The Textile Committee Act, 1963	21.05.2016
9	The Limestone and Dolomite Mines Labour Welfare Funds Act, 1972 [2 Cesses]	21.05.2016

10	The Tobacco Cess Act, 1975	21.05.2016
11	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976 [3 Cesses]	21.05.2016
12	The Cine-workers Welfare Cess Act, 1981	21.05.2016
13	Cess on cement [by notification]	Exempted in 2016. Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act, 2017.
14	Cess on strawboard [by notification]	Exempted in 2016. Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act, 2017.
15	Research & Development Cess	01.04.2017
16	The Rubber Act, 1947 – Cess on Rubber	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act
17	The Industries (Development and Regulation). Act, 1951, Cess on Automobile	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act.
18	The Tea Act, 1953 – Cess on Tea	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act.
19	The Coal Mines (Conservation and Development) Act, 1974 – Cess on Coal	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act
20	The Bidi Workers' Welfare Cess Act, 1976 – Cess on Bidis	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act.
21	The Water (Prevention and Control of Pollution) The Water (Prevention and Control of Pollution) Consumed by certain industries and by Local authorities.	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act.
22	The Sugar Cess Act, 1982, Cess on Sugar	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act
23	The Sugar Development Fund Act, 1982– The Jute Manufacturers Cess Act, 1983 – Cess on jute goods manufactured or produced wholly or in part of jute	Abolished w.e.f. 01.07.2017 by the Taxation Laws (Amendment) Act.
24	The Finance Act, 2010 – Clean Energy Cess	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act
25	The Finance Act, 2015 – Swachh Bharat Cess	Abolished with effect from 1.07.2017 by the Taxation Laws (Amendment) Act.
26	The Finance Act, 2016 – Infrastructure Cess and Krishi Kalyan Cess	Abolished with effect from 01.07.2017 by the Taxation Laws (Amendment) Act

3. Input and Input Service

Allowability of input tax credit for payment of output tax is one of the key features of GST. Input Tax Credit (ITC) provisions help in avoiding cascading effect of taxes. The input tax credit provisions under the central excise, service tax, state VAT laws and GST are different. Input Tax credit provisions under GST are more liberal as compared to Cenvat Credit Rules. On comparison of the ITC provisions under Cenvat Credit Rules and GST, it can be seen that the scope of inputs, input service and capital goods is wider in GST. More ITC is allowed to taxpayers under GST.

Provisions of Sec 171 of CGST Act, 2017 provides to pass on the benefit of input tax credit to recipient of goods or services or both. Therefore it is important to understand the concept of inputs, input service and capital goods under Cenvat Credit Rules (CCR) and GST.

4. Pre GST and Post GST

Following are major areas, where the taxpayer will get benefit of input tax credit, which was not available under the subsumed tax laws.

- 4.1 **Central Sales Tax:** - Central Sales Tax was leviable on interstate transactions with respect to sale of goods. The taxpayer was not entitled to avail set off of CST paid by him on his purchases. CST is subsumed in GST and now on interstate transactions Integrated GST (IGST) is leviable. The taxpayer is entitled to avail input tax credit of IGST paid by him on his inward supply of goods, services or goods and services. Effectively there will be direct reduction in landed cost of inward supplies.
- 4.2 **Stock Transfers to Depots:** - Since Customers were not ready to absorb cost of CST, many companies have opened depots in different states. At the time of stock transfers to depot outside the state, VAT/CST was not payable against form "F". However, set off of input tax was disallowed to taxpayer proportionate to value of interstate stock transfers. Now every interstate transaction including stock transfers will attract IGST. The input tax credit of IGST is available to tax payer. Therefore the disallowance of set off will not be a cost anymore.
- 4.3 **Entry Tax, Octroi, Local Body Tax (LBT):** - Some states were charging entry tax on goods. Similarly some local bodies such as municipal corporations were charging Octroi or Local Body Tax on the goods entering into the respective areas. Now Entry Tax, Octroi and LBT is subsumed in State Goods and Services Tax (SGST). Input tax credit of Entry Tax, Octroi and LBT was not available therefore it was cost to the taxpayer. Under GST, taxpayer is entitled to avail input tax credit of SGST and therefore Entry Tax , Octroi and LBT is not a cost anymore.
- 4.4 **Savings arising from non payment of Luxury Tax, Entertainment Tax:** - Luxury Tax and Entertainment Tax are abolished from the appointed day and are subsumed in SGST. Since input tax credit of Luxury Tax and Entertainment Tax was not available, it was a cost.

- 4.5 **Non reversal of proportionate Cenvat credit under Rule 6(3) of Cenvat Credit Rules, 2004:** - Cenvat credit was not available on inputs and input services used in manufacture of exempted goods and trading activity if he is engaged in manufacture of excisable and exempt goods or trading. Now, input tax credit of CGST is available on trading activities also. Also the list of exemptions from tax is reduced to a great extent. Therefore the cost on account of reversal of Cenvat credit on provision of exempted services, manufacture of exempted goods and trading activities will be saved.
- 4.6 **Carrying out process which does not amount to manufacture:** - Certain processes like kitting, making cable jointing kits, cutting, slitting, testing etc do not amount to manufacture under sec 2(f) of the Central Excise Act, 1944. Therefore persons engaged in doing such processes were not entitled for Cenvat credit. Now every commercial activity will attract GST and therefore the persons engaged in doing these processes will be entitled to take input tax credit of GST on inward supplies of goods as well as services. This will reduce landed cost of input services and inputs.
- 4.7 **Input tax credit is available to wholesalers, retailers, hotel, restaurants, outdoor caterers etc:** - Prior to GST , traders , wholesalers and retailers, hotels, restaurants, outdoor caterers etc were not entitled for Cenvat credit of service tax paid on input services. Now since they are required to pay GST, they will be entitled for input tax credit on inward supplies.
- 4.7 **Availability of credit on opening stock:-** Companies engaged in manufacture of exempted goods, warehouses and depots of goods from where goods were sold to consumers or in retail market, wholesalers, retailers may have opening stock on the appointed day. Since GST will have to be paid on supply of goods from such places, they are entitled to take input tax credit of Central Taxes on opening stock of inputs; input contained in semi finished goods and finished goods as per the transitional provisions. This will reduce their landed cost of goods in stock.
- 4.8 **Local Body Tax on job work:** - Job workers were exempt from LBT subject to prior permission of Municipal Corporation. In prior permission is not obtained, then LBT was payable on 10% of the value of the goods received for job work from outside the corporation limit. Since LBT is subsumed in GST, job workers are not required to pay LBT on job work charges.
- 4.9 **Purchase Tax/ URD:** - In some states, buyers were required to pay tax on the goods purchased from unregistered dealers. Input tax credit of the same was not allowed. Under GST, Input Tax credit of the tax paid under reverse charge is also allowed subject to restrictions provided under Sec 17 of the CGST Act, 2017.

4.10 Cenvat Credit on Furniture, Storage racks, Assets used in Office etc capitalized in books of account: - The definition of capital goods as per rule 2(a) of Cenvat Credit Rules was entirely different from the capital goods as understood in accounting principles for income tax or even for Companies Act. Generally spare parts, tools, tubes, fittings etc are not capitalized in books of account. But for cenvat purpose they were capital goods.

Further, as per the definition of Capital Goods in Cenvat Credit Rules , capital goods should be used in the factory of the manufacturer of the final products or outside the factory of the manufacturer of the final products for generation of electricity [or for pumping of water] for captive use within the factory. Thus equipments, appliances or machines used in the office of the manufacturer were not entitled for availing cenvat credit, though they are capitalized in the books of account.

The term capital goods is defined in section 2(19) of CGST Act. Capital Goods means goods , the value of which is capitalized in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business.

Sec 17 of the CGST Act excludes the following goods from the scope of Capital Goods:

- a) motor vehicles and other conveyances except when they are used
 - (i) for making the following taxable supplies, namely
 - (A) further supply of such vehicles or conveyances ; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
 - (ii) for transportation of goods.

Thus the scope of capital goods for the purpose of ITC is wider in GST. ITC can be claimed on the equipments, appliances etc irrespective of their use in the office of the manufacturer. This is an additional benefit to the manufacturers. Even Traders, Wholesalers, Retailers, Service Providers can also claim ITC on capital goods.

4.11 Admissibility of ITC on inputs (ED as well VAT) used by service providers: - Service providers were not entitled for credit (Set off) of VAT on input material used for providing output services. Under GST, suppliers of service as well as traders, dealers, wholesalers, retailers are entitled for input tax credit of GST. This will reduce their input cost.

Further, credit of Special Additional Duty (SAD) was not admissible to service providers. Since SAD is subsumed in GST, input tax credit can be availed by service providers. This will reduce their input cost.

4.12 Developers, Builders, Construction contractors: - Under Cenvat credit scheme, builders, developers, Construction contractors were not entitled for Cenvat credit of duty paid on inputs. Under GST, input tax credit on their inputs such as cement, steel, is allowed to them. They are

also entitled for input tax credit on the opening stock of inputs and input contents in work in progress and unbilled finished work. This will result in bringing down cost of material used in the work substantially.

- 4.13 **Price Reduction on input supplies by vendors:** - GST law provides that the benefits arising out of GST are to be passed on to customers. Therefore prices of inward supply will also be reduced. Of course this can be done through negotiations with suppliers. This will reduce cost of inward supplies.
- 4.14 **Refund of accumulated credit on account of inverted duty structure:** - In many cases , the duty payable on the finished goods was less than the credit available to the manufacturer. For example, the duty payable on pharmaceutical products was 6% whereas the inputs like bulk drugs, packing material etc attract duty @ 12.5%. Thus credit availed on inputs use to remain accumulated with the manufacturer of the pharmaceutical products. The credit could not be used as credit on inputs, capital goods and input services was more than duty paid on finished goods. The GST Act specifically provide for refund of such unutilized input tax credit. This will reduce the cost of production of such products.
- 4.15 **Duty paid on captively consumed goods:** - Notification No. 67/1995-CE provide exemption from payment of duty on intermediate goods or capital goods further used in manufacture of excisable goods. In case of final product exempted from duty, the exemption was not available. Since there is no concept of captive consumption and the GST is leviable on supply, no GST is payable on the goods used further by the same taxpayer.
- 4.16 **Abolition of Cesses:** - As many as 13 cesses have ceased to exist with the rollout of GST, from 1st July 2017. Which include Krishi Kalyan Cess and Swacha Bharat Cess. During the period 2015 to June 2017 as many as 13 cesses levied by the Central Government alongwith Central Excise and Service Tax have been abolished. These include Education cess , Secondary ad Higher Education Cess. Thus total 26 cesses have been abolished in the last two year. This also has an impact on cost of production. List of Cesses abolished has been given below.
- 4.17 **Transitional provisions:** - The impact of transitional provisions on input tax credit needs to be analyzed in terms of provisions of Sec 140 to 143 of CGST and SGST Acts. Though this will be limited to the extent of stock, it will provide more insight on assessing the impact of other factors.

Negative impact

- 4.18. **Adverse impact due to increase in tax rate on services, where input tax credit is not available:** - Services were liable to Service tax @ 14%, Krishi Kalyan Cess, @ 0.5% and Swacha Bharat Cess @0.5% . Now services attract GST @ 18% in general.

Sec 17 of CGST Act provides list on inputs and input services, where input tax credit is not available. On most of the services listed in Sec 17 of the CGST Act, Cenvat credit was also not allowed. Since these services are leviable to GST @ 18% as against Service Tax @ 15% including cesses, these services will become costlier.

4.19 Impact on working capital due to delay in getting input tax credit.

Working capital will be affected due to following.

- Input tax credit is admissible only after matching details of transactions with suppliers' Returns. GST is payable on advances received from the customers.
- GST is payable on interstate stock transfers.
- GST is payable on goods and services received from unregistered suppliers.
- Interest cost on working capital may increase due to this.

4.20 **Pruning of exemption list:** - Many exemptions available under Central Excise, Service Tax, VAT are removed in GST. The incidence of tax on said goods will increase the price of the goods.

4.21 **Compliance cost:** - The compliance by way filing returns, audit, reconciliation of input tax credit etc. is more in GST. However, this cannot be quantified in monetary terms.

4.22 **How to determine impact:** - The impact of the above factors for each organizations will vary. If the organization is having multiple units then unit wise impact will vary. The impact needs to be worked out considering the provisions of input tax credit under the erstwhile tax laws and provisions under GST.

A comparison of provision applicable to the respective organization or unit can be prepared. The quantum can be worked out on the basis of past two- three years actual and also considering the budgeted product mix, sales mix , purchase mix and interstate stock transfers etc. The impact in terms of percentage of turnover will be more appropriate for reducing the price of the goods or services.

5. Documents to be verified for assessing impact.

Following information / documents may be obtained for Impact Analysis.

Document	Purpose.
ER1.	Reversal under Rule 6 of CCR. Clearance of Exempt Goods. Stock Transfers. Duty paid on captively consumed goods.
ER4	Discounts, Freight, Valuation.
ST3	Service Tax under RCM. In-admissible service tax on rent a cab, Works contract, Repairs & Maintenance, Employee related services etc.
Cost Audit Report	Indirect Taxes reconciliation. Impact of disallowance of Cenvat credit u/r 6 of CCR, inadmissible inputs and input services.

Summary of VAT Returns.	Disallowance of set off on account of Interstate stock transfers.
VAT Audit Report.	Purchase Tax, Disallowance of set off, CST payment etc.
Trial Balance	Payment of LBT, Octroi, Entry Tax, Purchase Tax. Other Taxes and Cesses Repairs and Maintenance Cost.
Tax Audit Report	Details of capital goods on which Cenvat Credit is not availed. Furniture Fixtures etc.

Other details which may be useful for assessing financial impact.

- Comparison of inputs under Cenvat Credit Rules and GST
- Comparison of input services under Cenvat Credit Rules and GST
- Comparison of capital goods under Cenvat Credit Rules and GST
- Details of capital goods received from customers, Financial Institutions etc.
- Standard Operating Procedures (SOP) followed by the organization.
- Pending cases under Excise, VAT, Customs and Service Tax and other indirect Taxes.
- Details of Warehouses, C & F Agents and stock transfers – intra state and interstate.
- Details of imports.
- Inventory at Warehouses, C & F Agents outside state.
- Open contracts, Purchase Orders.
- Price Lists – pre GST and post GST
- Discount Structure and various discount schemes – pre GST and post GST.
- Tax rates – pre GST and post GST.

6. Anti-Profiteering Rules.

Provision relating to anti-proffering measure has been introduced vide section 171 of CGST Act. The idea is that the taxable person should pass on benefit of reduction in rate of tax on any supply of goods or the benefit of input tax credit to the customer as reduction in prices.

6.1 Gist of rules:- In exercise of the powers conferred by section 164 read with section 171 of the CGST Act, 2017, the Central Government has issued Anti Profiteering Rules.

As per Sec 171(2) of CGST Act, The Central Government may, on recommendation of GST Council by notification, constitute an Authority, or empower any existing Authority constituted under any law, to examine whether input tax credits availed by any registered person or the reduction in the tax rate actually have resulted in a commensurate reduction in the price of the said goods or services or both supplied by him.

The Authority referred to in section 171(1) shall exercise such functions and have such powers as may be prescribed – section 171(3) of CGST Act.

An Authority will be constituted with Chairman and four technical members. Standing Committee and Screening Committees will be constituted. State Level Screening Committees will also be constituted

The Authority will determine methodology and procedures to determine whether reduction in rate of supply and benefit of ITC has been passed on to the recipient –

6.2 Duties of the Authority

1. To determine whether any reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices.
 2. To identify the registered person who has not passed on the benefit of reduction in rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.
-
1. To order
 - a) Reduction in prices.
 - b) Return to recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices alongwith interest at the rate of eighteen percent from the date of collection of higher amount till the date of return of such amount or recovery of the amount not returned in case the eligible person does not claim return of the amount or is no identifiable, and depositing the same in the fund referred in sec 57 of the CGST Act.
 - c) Imposition of penalty as prescribed under the Act ; and
 - d) Cancellation of registration under the Act.

6.3 Scrutiny of the applications and investigation: - Applications will be scrutinized by Standing Committee within two months. Applications of local nature will be scrutinized by State Level Screening Committee and then forward to Standing Committee for further action

The Standing Committee will scrutinize the cases. If prima facie evidence of profiteering is found, the matter shall be referred to Director General of Safeguards.

The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices.

Before initiation of investigation, the Director General of Safeguards will issue notice to interested parties who may have information. He will collect evidence within three months. He will submit his report within three months to standing committee.

Director General of Safeguards can take assistance of other authorities. He has powers to summon persons to give evidence and produce documents.

As per Rule 130 of CGST and SGST Rules, 2017, provisions of section 11 of RTI Act relating to disclosure of confidential information supplied by third party will apply to information received by Director General of Safeguards -

On receipt of report of Director General of Safeguards, the Authority will give opportunity of hearing to interested parties.

6.4 Order of the Authority:

After investigation and hearings, the Authority may order

- a. reduction in price
- b. return amount to recipient
- c. impose penalty (which is maximum ₹25,000)
- d. cancellation of registration under GST Act - Rule 133(3) of CGST and SGST Rules, 2017

Rule 135 of CGST and SGST Rules, 2017 provides that if the taxable person does not comply, recovery proceedings can be initiated as per provisions of CGST, SGST and UTGST Act.

6.5 Penalty: - Interestingly, there is no provision for imposing separate penalty or recovering excess profit. Even if profiteering is discovered, maximum penalty that can be imposed is residual penalty of ₹25000/- under Sec 125 of CGST and SGST Act.

However, Rule 21(c) of CGST and SGST Rules, 2017 provides for cancellation of registration for violation of provisions relating to anti profiteering.

6.6 Sunset Clause: - As per Rule 137 of CGST and SGST Rules, 2017, Anti profiteering clause has sunset clause of two years.

7. Role of Cost Accountants

- If the power to deregister or cancellation of registration is invoked frequently and lightly by the authority under Anti Profiteering provisions, it will create fear and distrust amongst the trade.
- Therefore, before taking any such action, the Authority can order special audit by Cost Accountants under Sec 66(1) of the CGST Act which will be very useful in taking any such decision.
- The organizations can also undertake voluntary audit by the Cost Accountants with respect to benefits received due to implementation of GST.

- The anti-profiteering rules provide for constitution of screening committees in each state and also the standing committee. These committees may refer matters to cost accountants or cost accountants can approach them for assistance in verification of data for assessing the impact.
- Cost Accountants should be prepared with the detailed knowledge of GST law and its applications to the different transactions and procedures followed by the respective organizations.
- Training and awareness programs on anti-profiteering provisions also can be conducted by Cost Accountants.



INCOME COMPUTATION AND DISCLOSURE STANDARDS AND REPORTING IN A NEW REGIME

CMA MRITYUNJAY ACHARJEE

Overview and key aspects

The Central Board of Direct Taxes (CBDT) issued 10 Income Computation and Disclosure Standards on 31st March 2015, in exercise of the powers conferred by section 145(2) of the Income Tax Act, 1961 by providing a framework for computation of taxable income of all assesses in relation to the income under heads “Profits and Gains under Business or Profession” and “Income from Other Sources”. This notification specified that it would be applicable for the previous year corresponding to the AY 2015-16 onwards. Numbers of representations have been made by various stake holders which were examined by an expert committee consisting of departmental officers and professionals. Consequently the committee has recommended amendments to the notified ICDS which resulted in a new notification no. 87/2016 dated 29-09-2016 released by CBDT which also repealed its earlier notification no 32/2015 dated 31-03-2015. Revised ICDS are applicable to all assesseees (other than Individual or HUF who is not covered by the provisions of tax audit u/s 44AB of the IT Act 1961) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the heads “ Profits and Gains of Business or Profession” or “Income from other Sources “. Revised ICDS shall apply from AY 2017-18 onwards

The CBDT has issued Clarifications by way of 25 Nos. FAQs on it’s ‘Revised Income Computation and Disclosure Standards (ICDS 1~10)’ notified earlier u/s 145(2) of the Income-tax Act, 1961, based on reference received from stakeholders in respect of certain provisions of ICDS, as under:

Sub-section (1) of section 145 of the Income-tax Act, 1961 (‘the Act’) provides that the income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or

mercantile system of accounting regularly employed by the assessee. Sub-section (2) of section 145 provides that the Central Government may notify Income Computation and Disclosure Standards (ICDS) for any class of assessees or for any class of income. Accordingly, the Central Government notified 10 ICDS vide Notification No.S.O.892 (E) dated 31st March, 2015 with effect from assessment year 2016-17.

After notification of ICDS, it has been brought to the notice of the Central Board of Direct Taxes ('the Board') by the stakeholders that certain provisions of ICDS may require amendment/ clarification for proper implementation. The matter was referred to an expert committee. The Committee after duly consulting the stakeholders in this regard has recommended a two-fold approach for the smooth implementation of ICDS, i.e. amendment to the provisions of ICDS in respect of certain issues and issuance of clarifications by way of FAQs for the rest of issues. Accordingly, vide Notification No. 87 dated 29th September,2016 Central Government notified amended ICDS with effect from the assessment year 2017-18. It is now for the assessee community and the professionals who advise them, to implement the standards from the Assessment Year 2017-18 onwards. Corresponding changes have also been made by CBDT in form 3CD to be issued by an accountant in the process of Tax audit. In this article it is proposed to highlight issues and concerns being faced by the assessees in implementing the purport of these standards.

ICDSs are expected to fill up some gaps that existed in the current taxation set up by bringing in consistency and clarity in computation of taxable income and providing stability in tax treatments of various items. ICDSs also address the significant issue relating to taxability of assessees when companies in India move their financial reporting to Indian Accounting Standards (Ind-AS) that are converged with International Financial Reporting Standards (IFRS) in a phased manner.

The Genesis of ICDS

In 2010, when Ministry of Corporate Affairs had announced a roadmap for converging Indian financial reporting with IFRS in a phased manner, one of the biggest challenges faced by corporate sector was how this change in financial reporting would impact taxable income, as many companies would report using Ind-AS while others would report using the older Accounting Standards (AS).

In response, the CBDT set up a committee in 2010 to look at the taxation related aspects of Ind-AS implementation.

They also recognised it as an opportunity to address certain accounting issues that have been a subject matter of tax litigation due to either diversity in accounting practices or divergence in views between tax payers and tax authorities.

While globally different approaches have been adopted to deal with the tax issues arising from IFRS adoption, the CBDT has chosen to go down the path of prescribing a separate framework for computation of taxable income, which is independent of the financial reporting framework followed by the company.

The CBDT Committee as part of their report issued in October 2012, also put out fourteen draft tax accounting standards for public comments. Over two years since, and close on the heels of the press release notifying the roadmap for Ind-AS convergence on 2 January 2015, the Ministry of Finance also published a revised set of twelve draft ICDS on 8 January 2015 for final comments. The comment period ended on 8 February 2015. Finally, the notification with ten ICDS has now been issued. With the notification of ICDS, there is certainty on the path that has been chosen by the CBDT.

In this article, we would discuss about the salient features of the new Tax Accounting standards. The Standards are:

Income Computation and Disclosure Standards
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ICDS I:	Accounting Policies
ICDS II:	Valuation of Inventories
ICDS II:	Construction Contracts
ICDS IV:	Revenue Recognition
ICDS V:	Tangible Fixed Assets
ICDS VI:	Effects of Changes in Foreign Exchange Rates
ICDS VII:	Government Grants
ICDS VIII:	Securities
ICDS IX:	Borrowing Costs
ICDS X:	Provisions, Contingent Liabilities & Contingent Assets



GOODS AND SERVICE TAX UNDER REVERSE CHARGE - PROVISIONS & ITS COMPLIANCES

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Normally Goods and Service Tax (GST) is payable by the Taxable person who is supplying goods and services. Reverse Charge is a mechanism under Goods and Service Tax Laws (GST Acts), where the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply (ref section 2(98) of CGST Act). The recipient must be a 'Registered person' as defined in section 2(94) of the Act means a person who is registered under section 25. There are two types of reverse charge scenarios provided in GST Laws. (Provisions of CGST Act stated below are the same to SGST ACT / UTGST Act)

(1) Notified Goods & Services: As per the provisions of section 9(3) of CGST/SGST (UTGST) Act, 2017/ & section 5(3) of IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Taxability arises in the hands of recipient under this section which are as follows.

- Supplies Goods: **Five** categories of goods have been notified vide Notification No.4/2017-CT (Rate) dated. 28.06.2017 & No.4/2017-IT dated.28.06.2017 where the recipient to pay GST
- Supplies of Services: **Eleven services (nine under CGST Act & two under IGST Act)**, have been notified vide Notification No. 13/2017-CT (Rate) dated.28.06.2017 & No.10/2017 -IT (Rate) 28th June, 2017 where the recipient to pay GST.

Service providers are not required to take registration, when GST will be paid by the recipient under reverse charge even if the supply is made in the Inter State (outside of state / union territory). As per Notification No.5/2017-CT dated.19.06.2017, exemption is given to persons providing services where recipient is liable to pay GST. However there is no bar on taking registration for supply of eleven services as stated above.

100% GST liability is payable by recipient registered person on total value of supply of goods or services at applicable rates and no exemption on value is available like procurement from unregistered suppliers as stated in section 9(4) of CGST Act details explained below.

The supplier of goods or services must mention in his tax invoice that the GST is payable on reverse charge.

(2) Purchases from Unregistered supplier of Goods & Services:

Section 9(4) of CGST/SGST (UTGST) Act, 2017/section 5(4) of IGST Act, 2017, provides that the tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

On analysis of the aforementioned provisions, one can infer that tax on reverse charge basis shall be payable only when following four conditions are satisfied simultaneously:

- There must be **supply** of goods or services
- Supply must be of **taxable** goods or services
- The **supplier** of goods or services is an **unregistered person**
- The **recipient** of such goods or services must be a **registered person**

Accordingly, whenever a registered person procures supplies from an unregistered supplier, he shall pay GST on reverse charge basis. However, supplies where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted for such payment of tax. Few important points to be remembered while paying GST under reverse charge basis by the registered person.

- The expression "supply" in section 7 of CGST Act includes *"all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person **in the course or furtherance of business;**"*
- No GST shall be payable if the goods or services supplied by unregistered person to registered person on which tax is not leviable / exempted or attracts at Nil rate.

- Supply of goods and services shall be made by unregistered person to registered person either in interstate or intra state.
- GST on reverse charge is to be paid at rates applicable on the goods or services being supplied by the unregistered person to the registered person (either 6%, 12% 18% or 28%).
- GST under reverse charge is not required to be paid if purchases from unregistered supplier of goods or services in aggregate do not exceed ₹.5,000/- per day for a GSTIN (all locations covered under registration) - Notification No.8/2017 - Central Tax (Rate) 28th June, 2017. If value of supply per day exceeds ₹.5,000 per day, then on such amount GST is payable. (if it is ₹.5001/- then GST on ₹.5,001 is payable).
- No exemption of ₹.5,000 per day for a GSTIN as above applied to interstate supplies by unregistered person to registered person.
- While calculating inward supplies of ₹.5000 per day from unregistered person, Non GST supplies, /petroleum products, supplies specified in Schedule III (neither goods/services or nether goods and service) to CGST Act and supplies notified under section 9(3) shall be excluded.
- Reverse Charge is applicable on receipt of goods / services from unregistered dealers directly or indirectly, expenditure incurred out of imprest payments or payment made to the employees as a reimbursement against such supplies that used in business, advance payment against such supplies etc.
- Reverse charge is applicable to all payments against supply of goods and services from unregistered dealers whether such expense is booked under capital expenditures / revenue expenditures.

Following are details of provisions enumerated that are applicable to the liability for payment of GST under reverse charge under both situations as stated above (1) & (2)

Compulsory registration for Recipient: All persons who are required to pay tax under reverse charge have to register for GST irrespective of the threshold even if not engaged in the taxable supply.

Issue of Tax Invoice: A registered person who is liable to pay GST under section 9(3) or section 9(4) of CGST Act / section 5(3) or section 5(4) of IGST Act shall issue a Tax Invoice in the prescribed format as stated in Rule 46 of CGST Rules in respect of goods or services or both received by him from unregistered suppliers. A consolidated tax invoice in the prescribed format (in the name of self) for all such transactions may be issued daily or weekly or monthly as per convenience.

Issue of Payment Vouchers: A registered person who is liable to pay GST under section 9(3) or section 9(4) of CGST Act / section 5(3) or section 5(4) of IGST Act shall issue a Payment Voucher in

the prescribed format as stated in rule 52 of CGST Rules for goods or services or both received by him from unregistered suppliers.

Time of Supply: As per GST law the time of supply (liability of recipient registered person for payment of GST) is as follows:

In case of Service: The time of supply of service is the earliest of following

- date of payment as per books of accounts or date of debit in bank account whichever is earlier
OR
- the date immediately following sixty days from the date of issue of invoice.

The liability of recipient registered person arises on the date of payment or 60 days from date of BILL / Bill of supply /invoice whichever is earlier.

In case of goods: The time of supply of goods is the earliest of following

- the date of receipt of goods or
- the date of payment as per books of accounts or debit in bank account whichever is earlier or
- the date immediately following 30 days from the date of issue of invoice.

In this case the suppliers are required to raise their claim / Issue 'BOS / bills/ 'Invoice' without charging GST, immediately on supply of goods. The liability of recipient registered person arises on the date of receipt of goods or date of payment (in accounts / or bank which is earlier) or 30 days from date the date of issue of invoice whichever is earlier.

Payment of GST & Input Tax Credit: As per section 49(4) of CGST Act'2017, ITC can be used for payment of output tax only. Therefore, GST payable under reverse charge shall be paid by cash i.e. through Electronics Cash Ledger only. Tax paid on reverse charge basis will be available to the recipient for input tax credit if such goods and/or services are used, or will be used, for business.

Composition dealer: If the composite dealer falls under reverse charge mechanism then the dealer is ineligible to claim any credit of the tax paid. The dealer is liable to pay tax at normal rates applicable to such supply and not the rate applicable for composition scheme.

Applicability of Compensation Cess: GST Compensation Cess will be applicable on tax paid under reverse charge mechanism also as the amount shall be utilised for payment of compensate States for loss of revenue on implementation of GST.

Filing of Return: Return as prescribed under GST Laws to be filed by the recipient registered persons of inward supplies. There will be no auto population of details of the GST paid under the RCM in GSTR 2, but it will be subjected to the manual furnishing of details.

Conclusion: From the above detail discussion, it is concluded that, Tax will be paid by the registered dealer and all the provisions of the act will be applicable to him as if he is the supplier of the goods or services. The objective of law is to prevent tax evasion since it would not be possible to collect tax by respective Government from the unregistered persons engaged in supply of taxable goods or services. It would increase tax compliance and promotes transparency. Input credit will be allowed to the registered dealer of the tax paid by him under the reverse charge mechanism. But at the same time it will increase volume of work to maintain details of receipt of goods or services, its reconciliations, issues of self tax invoices & payment vouchers in respect of such supplies, payment of taxes keeping in view the time of supply, filing of returns and other compliances at the cost of registered persons. Moreover for the small recipient registered persons this leads to little harsh and may not be the objective of the law.



GST IMPACT ON ELECTRONIC COMMERCE OPERATORS (ECO)

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The advent of electronic commerce has brought in new dimensions in taxation of digital transactions. Unlike a dealer who deals in goods and or services and offer the same to his customers on a digital network, an ECO is a facilitator who plays the role of bringing the buyer and seller to a common platform.

Prior to GST, the indirect tax laws became archaic and the tax provisions lost pace with the transactions in the digital space. The GST Act and Rules do recognize the significance of electronic commerce and has specific provisions which govern various facets of such transactions. The objective of this articles is to provide a perspective about the relevant provisions in GST Act and Rules impacting the ECO.

Registration of ECO for GST:

Section 22 of the CGST Act (“the Act) prescribes that a supplier is liable to obtain registration in the state or UT from where he makes a taxable supply subject to the condition that the aggregate turnover of such supplier exceeds INR 20lakhs in a financial year. However, Section 24 overrides this provision in certain cases and one such case is that ECO. Section 24 (x) of the Act prescribes that an ECO shall have the obligation of obtaining mandatory registration in GST. This could imply that an ECO would be obligated to obtain registration in every state irrespective of the fact whether the ECO has taxable supplies in a state or irrespective of the fact that aggregate turnover of the ECO does not cross the prescribed threshold. It is also important to mention that the threshold would not apply to a supplier of goods or service if he is engaged in supply through an ECO and the ECO is required to deduct a tax on his supplies.

Payment of GST by ECO

A supplier is liable to pay GST on his taxable supplies. However, Section 9(5) of the Act has a specific provision wherein the Government is empowered to notify certain categories of services if supplied

through an ECO, the liability of GST in such cases would be payable by the ECO. Notification 17/2017- Central Tax (Rate) notifies such services, one such example being services of transportation provided by radio-tax, motorcab, maxicab and motor cycle. Similar provisions also exist in the Integrated Tax Act to cover inter- state supplies made in respect of notified services such as above through an ECO.

The Section also provides that in case the ECO does not have a presence in a taxable territory, a person representing the ECO in that territory or a person duly appointed by the ECO would be liable to comply with the requirement of payment of tax on behalf of the ECO.

Tax Collection at Source

Section 52 of the Act prescribes that an ECO shall be liable to collect an amount up to one per cent of the net value of taxable supplies made by other suppliers through such ECO where the consideration of such supplies is required to be collected by the ECO. Such amount would be known as Tax Collected at Source (TCS). The TCS would need to be collected during the month when consideration is received from the recipient of supplies. Further, the TCS collected would need to be deposited with the Government within 10th of the following month for which the TCS has been collected along with a statement containing the details of TCS collected. In addition, the ECO is also required to submit an annual statement by December 31st for TCS collected during the previous financial year. The detailed notifications regarding effective date of implementation of the above provisions are awaited from the Government at this stage.

Conclusion

Thus, it is evident from the above, that an ECO has the onerous task of compulsory registration in each state and comply with the requirements of TCS. Therefore, in addition to account and comply in respect of the income earned from their own operations, an ECO would need to maintain and keep records of transactions conducted through it by various suppliers which would enable them comply with the TCS provisions. While, it appears simple, the implementation of the same is challenging considering the infrastructure and legal requirements in respect of the transactions.

TAX UPDATES AND NOTIFICATIONS

CUSTOMS

Notifications

Tariff

- Notification 75/2017-Cus dated 13-09-2017 provides exemption from Customs duty, subject to specified conditions, on specified goods imported into India in connection with organizing of FIFA Under-17 World Cup football tournament to be held in India.
- Notification 72/2017-Cus dated 16-08-2017 seeks to supersede Notification No. 27/2002-Customs dated 1st March, 2002 and to provide exemption to temporary import of goods from Customs duty leviable under First Schedule to the Customs Tariff Act, 1975 and from the whole of the integrated tax leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975 subject to specified conditions.
- Notification 71/2017-Cus dated 11-8-2017 seeks to further amend notification No. 50/2017 - Customs dated the 30th June, 2017, so as to –
 1. Increase the BCD on crude soya bean oil from 12.5% to 17.5%;
 2. Increase the BCD on crude palm oil of edible grade from 7.5% to 15%; and
 3. Increase the BCD on refined palm oil of edible grade from 15% to 25%.

Non-Tariff

- Vide Notification no 89/2017-Cus dated 21.09.2017 the Central Government has prescribed the rates of duty drawback post introduction of GST subject to conditions.

[Notification No.89/2017-Cus (NT), dt. 21.09.2017]

Goods and Services Tax

Central Tax Notifications

- The Central Government vide notification 35/2017-Central Tax dated 15-09-2017 has prescribed that return in GSTR-3B would need to be filed for the months of August, 2017 to December, 2017 by the 20th of the following month. Further, the taxpayer would also need to discharge his liability of tax, interest, penalty, fees or any other amount payable for these months either by way of debit to cash or electronic credit ledger by 20th of the following month

- Vide notification 34/2017-Cus dated 15-09-2017 the Central Government has inserted a new Rule 120A in the CGST Rules which prescribes that declaration in Form Tran-1 if filed within the stipulated timeline could be revised once within the prescribed timeline. Further, the Government vide order no 03/2017-GST dated 21-09-2017 the Government has extended the timeline for submission of Form Tran-1 till October 31, 2017 and vide 02/2017-GST dated 18-09-2017 has notified that revision in Form Tran-1 would need to be filed by October 31, 2017.

- The Central Government vide notification 33/2017-Central Tax dated 15-09-2017 has notified the persons liable for deduction of tax at source in terms of the Section 51 of the CGST Act. The following persons are notified under the Section:
 - a) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;
 - b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
 - c) public sector undertakings

The above persons shall be liable to deduct tax from a date to be notified in this regard.

- The Central Government has extended the timeline for submission of GSTR-6 return prescribed for Input Service Distributors (ISD) for July, 2017 till October 13, 2017 vide notification 31/2017-Central Tax dated 11-09-2017.

- The Central Government has also extended the date for filing of GSTR-1, GSTR-2 and GSTR-3 for the month of July, 2017 in terms of notification 30/2017-Central Tax dated 11-09-2017.

- Vide notification 27-2017 dated 30-08-2017 the Central Government amended the CGST Rules to insert Rules 138 and 138A regarding Electronic Way Bills required for movement of goods.

- Seeks to extend the last date for filing the return in FORM GSTR-3B for the months of August to December, 2017. In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 and notification No. 21/2017-Central Tax dated the 08th August, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide G.S.R. number 997 (E), the Commissioner, on the recommendations of the Council, hereby specifies that the return for the month as specified in column (2) of the Table below shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified in the corresponding entry in column (3) of the said Table.

[Notification No. 35/2017-Central Tax, dt. 15-09-2017]

- Seventh amendment to the CGST Rules, 2017. In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-
(1) These rules may be called the Central Goods and Services Tax (Seventh Amendment) Rules, 2017.
(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

[Notification No. 34/2017-Central Tax, dt. 15-09-2017]

- Notifying section 51 of the CGST Act, 2017 for TDS. In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 18th day of September, 2017 as the date on which the provisions of sub-section (1) of section 51 of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act.

[Notification No. 33/2017-Central Tax, dt. 15-09-2017]

- Seeks to granting exemption to a casual taxable person making taxable supplies of handicraft goods from the requirement to obtain registration. In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the casual taxable persons making taxable supplies of handicraft goods as the category of persons exempted from obtaining registration under the aforesaid Act.

[Notification No. 32/2017-Central Tax, dt. 15-09-2017]

- Seeks to extend the time limit for filing of GSTR-6. In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) and in supercession of notification No. 26/2017-Central Tax, dated the 28th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1071 (E), dated the 28th August, 2017, except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the return by an Input Service Distributor under sub-section (4) of section 39

of the said Act read with rule 65 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2017 upto the 13th October, 2017.

[Notification No. 31/2017-Central Tax, dt. 11-09-2017]

- Seeks to extend the time limit for filing of GSTR-1, GSTR-2 and GSTR-3. In exercise of the powers conferred by the second proviso to sub-section (1) of section 37, first proviso to sub-section (2) of section 38 and sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and in supersession of notification No. 29/2017-Central Tax, dated the 5th September, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1129 (E), dated the 5th September, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details or return, as the case may be, under sub-section (1) of section 37, sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, as specified in column (2) of the Table below for the month of July, 2017, for such class of taxable persons or registered persons, as the case may be, as specified in the corresponding entry in column (3) of the said Table till the time period as specified in the corresponding entry in column (4) of the said Table.

[Notification No. 30/2017-Central Tax, dt. 11-09-2017]

- Seeks to extend due dates for furnishing details>Returns for the months of July, 2017 and August, 2017. - In exercise of the powers conferred by the second proviso to sub-section (1) of section 37, first proviso to sub-section (2) of section 38 and sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and in supersession of notifications No. 18/2017-Central Tax, dated the 8th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 994 (E) dated the 8th August, 2017, No. 19/2017- Central Tax, dated the 8th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 995 (E), dated the 8th August, 2017 and No. 20/2017-Central Tax, dated the 8th August, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 996 (E), dated the 8th August, 2017, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details or return, as the case may be, specified in sub-section (1) of section 37, sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act as specified in column (3) of the Table below for the month as specified in column (2) of the said Table, till the time period as specified in the corresponding entry in column (4) of the said Table.

[Notification No. 29/2017-Central Tax, dt. 05-09-2017]

- Seeks to waive the late fee for late filing of FORM GSTR-3B, for the month of July. In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby waives the late fee payable under section 47 of the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, 2017 by the due date.

[Notification No. 28/2017-Central Tax, dt. 01-09-2017]

Central Tax (Rate) Notifications

- Seeks to amend notification no. 5/2017- central tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding restriction of refund on corduroy fabrics. In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.5/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 677(E), dated the 28th June, 2017.

[Notification No. 29/2017-Central Tax (Rate) ,dt. 22-09-2017]

- Seeks to amend notification no. 2/2017- central tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding gst exemptions. In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.2/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 674(E), dated the 28th June, 2017.

[Notification No. 28/2017-Central Tax (Rate) ,dt. 22-09-2017]

- Seeks to amend notification no. 1/2017- central tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding gst rates. In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017.

[Notification No. 27/2017-Central Tax (Rate) ,dt. 22-09-2017]

- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of the central tax leviable thereon under section 9 of the Central Good and Services Tax Act, 2017 (12 of 2017).

[Notification No. Notification No. 26/2017-Central Tax (Rate)]

- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of

India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 691(E), dated the 28th June, 2017.

[Notification No. 25/2017- Central Tax (Rate)]

- In exercise of the powers conferred by sub-section (1) of section 9, subsection (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.11/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 690(E), dated the 28th June, 2017. [Notification No. 24/2017-Central Tax (Rate)]

Integrated Tax Notifications

- Granting exemption to a person making inter-State taxable supplies of handicraft goods from the requirement to obtain registration. In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the “said Act”), the Central Government, on the recommendations of the Council, hereby specifies the persons making inter-State taxable supplies of handicraft goods as the category of persons exempted from obtaining registration under the aforesaid Act.

Provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of twenty lakh rupees in a financial year:]

Provided further that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ten lakh rupees in case of Special Category States, other than the State of Jammu and Kashmir.

[Notification No. 08/2017-Integrated Tax, dt. 14-09-2017]

- Granting exemption from registration to job-workers making inter-State supply of services to a registered person from the requirement of obtaining registration. In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the “said Act”), the Central Government, on the recommendations of the Council, here by specifies the job workers engaged in making inter-State supply of services to a registered person as the category of persons exempted from obtaining registration under the said Act:

Provided that nothing contained in this notification shall apply to a job-worker –

(a) who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the said Act; or

(b) who is involved in making supply of services in relation to the goods mentioned against serial number 151 in the Annexure to rule 138 of the Central Goods and Services Tax Rules, 2017.

[Notification No. 07/2017-Integrated Tax, dt. 14-09-2017]

Integrated Tax Notifications (Rate)

Seeks to exempt Skimmed milk powder, or concentrated milk. In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Goods and Services Tax Council, hereby exempts inter-State supplies of goods, the description of which is specified in column (3) of the Table below, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2), from the whole of the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017 (13 of 2017), subject to the condition specified in column (4) of the Table below.

[Notification No. 30/2017-Integrated Tax (Rate)]

Seeks to amend notification no. 5/2017- integrated tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding restriction of refund on corduroy fabrics. In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.5/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 670(E), dated the 28th June, 2017.

[Notification No.29/2017-Integrated Tax (Rate)]

Seeks to amend notification no. 2/2017- integrated tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding gst exemptions. In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Goods and Services Tax Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.2/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 667(E), dated the 28th June, 2017.

[Notification No.28/2017-Integrated Tax (Rate)]

Seeks to amend notification no. 1/2017- integrated tax(rate) dated 28.06.2017 to give effect to gst council decisions regarding gst rates. In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E), dated the 28th June, 2017.

[Notification No. 27/2017-Integrated Tax (Rate)]

Exempt certain supplies to NPCIL. In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts inter-state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017 (13 of 2017).

[Notification No. 26/2017-Integrated Tax (Rate)]

Seeks to amend notification No. 09/2017-II(R) to exempt right to admission to the events organised under FIFA U-17 World Cup 2017. In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 684(E), dated the 28th June, 2017.

[Notification No. 25/2017-Integrated Tax (Rate)]

Seeks to amend notification No. 08/2017-II(R) to reduce CGST rate on specified supplies of Works Contract Services. In exercise of the powers conferred by sub-section (1) of section 5, subsection (1) of section 6 and clause (iii) and clause (iv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 683(E), dated the 28th June, 2017.

[Notification No. 24/2017-Integrated Tax (Rate)]

Income Tax

Notification

- TDS on interest on deposits made under the Capital Gains Accounts Scheme, 1988 where the depositor has deceased
[Notification No. 08/2017, New Delhi, 13'th, September, 2017]
- In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Gujarat Electricity Regulatory Commission', a Commission constituted under the Electricity Regulatory Commissions Act, 1998, in respect of the following specified income arising to that Commission
[Notification No. 84 /2017/F. No. 300196/8/2017-ITA-I]
- In exercise of the powers conferred by sub clause (i) of clause (18) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, hereby specifies the gallantry awards for the purpose of the said section, mentioned in column (2) of the Table, awarded in the circumstances mentioned in corresponding column (3) thereof
[Notification No. 83/2017/F. No. 199/3/2017-ITA-I]
- Whereas the Protocol amending the Agreement, signed at Ha Noi on the 7th day of September, 1994, between the Government of the Republic of India and the Government of the Socialist Republic of Viet Nam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, was signed at Ha Noi, Viet Nam on the 3rd day of September, 2016 (hereinafter referred to as the "the said Protocol");
[Notification No. 82/2017/ F.No.503/5/2009-FTD-II]
- It is hereby notified for general information that the organization MIs Institute for Stem Cell Biology and Regenerative Medicine, Mangalore (PAN:- AAATI7342D) has been approved by the Central Government for the purpose of clause (ii) of sub-section (I) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income Tax Rules, 1962 (said Rules), for Assessment year 2016-2017 and onwards in the category of 'Scientific Research Association', subject to certain conditions.
[Notification No. 81/2017/New Delhi 20th August 2017]
- In exercise of the powers conferred by sub-section (4) of section 115JB read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the certain rules further to amend the Income-tax Rules, 1962
[Notification No. 80/2017/F. No. 133/23/2015-TPL]
- In exercise of the powers conferred by clause (ba) of Explanation to section 54EC of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that any bond redeemable after three years and issued by the Indian Railway Finance Corporation Limited, a company formed and

registered under the Companies Act, 1956 (1 of 1956), on or after the date of publication of this notification in the Official Gazette, as 'long-term specified asset' for the purposes of the said section.

[Notification No. 79/2017/F. No. 370142/18/2017-TPL]

- In exercise of the powers conferred by clause (b) of sub-section (3) of section 9A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the following countries and specified territories, mentioned in column (2) of the Table given below, for the purposes of the said section

[Notification No. 78/2017/F. No. 142/15/2015-TPL]

- In exercise of the powers conferred by the proviso to sub-section (3) of section 9A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that the conditions specified in clauses (e), (f) and (g) of said sub-section shall not apply in case of an investment fund set up by a Category-I or Category-II foreign portfolio investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992). 2. This notification shall come into force from the date of its publication in the Official Gazette.

[Notification No. 77 /2017/F. No. 142/15/2015-TPL]

- In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the Himachal Pradesh Electricity Regulatory Commission, a commission established by the Government of Himachal Pradesh, in respect of the certain specified income arising to that Commission.

[Notification No. 76 /2017/ F. No. 300196/4/2017-ITA-I]

JUDGEMENTS

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC'
BENCH CUTTACK
BEFORE SHRI N. S SAINI, ACCOUNTANT MEMBER
ITA NO.126/CTK/2017**

ASSESSMENT YEAR: 2011 - 2012

Orissa Pisciculture Corporation Ltd., Plot No. D, Nayapali, Bhubaneswar.	Vs.	ITO, Ward 2(1), Bhubaneswar.
PAN/GIR NO. AAACO6404D		
(Appellant)	(Respondent)

Assesse by : Sri Niranjan Mishra AR
Revenue by : Sri D. K. Pradhan, DR
Date of Hearing : **01 /08/ 2017**
Date of Pronouncement : **04 /08/ 2017**

ORDER

This is an appeal filed by the assessee against the order of CIT (A) -

1. Bhubaneswar, dated 18.11.2016, for the assessment year 2011-12.

2. The sole issue involved in this appeal is that the CIT(A) erred in confirming the order of the Assessing officer disallowing deduction of employee's share of EPF and ESI amounting to ₹13,27,148/- on the ground that same was not deposited to the PF and ESI authorities within the due date prescribed under the respective Act.

3. The brief facts of the case are that the Assessing Officer found that during the year under consideration, employee's contributions to EPF and ESI amounting to ₹13,27,148/- were not paid to the respective authorities within the due date as prescribed under the Act but were deposited later on as under:

EPF (Account No 134368) Code - OR2655

MONTH	EMPLOYEES' SHARE	DATE OF DEPOSIT	1
April 2010	93326	06.07.2010	
May 2010	90130	21.07.2010	
June 2010	94067	19.08.2010	
July 2010	99656	06.09.2010	
August2010	86176	22.09.2010	
September 2010	90829	25.10.2010	
January 2011	90690	22.02.2011	
Total	644874		

Code – OR3020

MONTH	EMPLOYEES' SHARE	DATE OF DEPOSIT
April 2010	93115	06.07.2010
May2010	87500	21.07.2010
June 2010	87653	19.08.2010
July 2010	91076	06.09.2010
August2010	86388	22.09.2010
September 2010	102571	25.10.2010
January 2011	98744	22.02.2011
Total	647647	

ESI Contribution

Sl. No	MONTH	EMPLOYEES' SHARE	DATE OF DEPOSIT
1.	April 2010	3782	29.06.2010
2.	May 2010	3661	22.07.2010
3	June 2010	3608	17.08.2010
4	July & August 2010	8085	29.09.2010
5	September 2010	3292	29.10.2010
6	October 2010	3230	26.11.2010
7	Nov 2010	3406	23.12.2010
8	Jan 2011	3177	28.02.2011
9	Feb 2011,	2986	31.03.2011
	Total	35,227	

4. Therefore, he added ₹13,27,148/- to the income of the assessee under section 43B r.w.s 2(24)(x) of the Act.

5. On appeal, the CIT (A) confirmed the action of the Assessing Officer.

6. Before me, Id A.R. of the assessee argued that employee's contribution to PF and ESI was allowable deduction to the assessee if the same was deposited within the due date of filing the return of income u/s.139(1) of the Act. He submitted that it will be observed from the assessment order that the payments are made by the assessee before due date of filing the return of income u/s. 139(1) of the Act and there of the deduction should be allowed.

7. LD D. R supported the orders of lower authorities.

8. I have heard rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, it is not in dispute that the employees' contributions to PF and ESI were deposited by the assessee before due date of filing the return of income u/s. 139(1) of the Act. The Hon'ble Delhi High Court in CIT Vs. AIMIL Limited [2010] 321 ITR 508 (DEL) has held that the employees' contribution towards EPF and ESI etc. deposited after the due date but before the time allowed for filing the return u/s.139(1) will not call for any disallowance u/s.36(l)(va). Therefore, I set aside the orders of lower authorities and delete the disallowance of employees contribution to PF and ESI of ₹13,27,148/- and allow this ground of appeal of the assessee.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 04/08/2017.

2017 (1) TMI 42 - ITAT CUTTACK

Nemhans Solutions Pvt. Ltd. Versus ACIT, Circle-2 (2) , Bhubaneswar

ITA No. 346/CTK/2016

Dated: - 30 November 2016

Disallowance of employees contribution to PF and ESI - amounts not deposited before the due date - Held that:- It is not in dispute that the contribution to PF and ESI was deposited by the assessee before due date of filing the return of income u/s. 139(1) of the Act. Therefore, set aside the orders of lower authorities and delete the disallowance of employees contribution to PF and ESI. See COMMISSIONER OF INCOME TAX, CIRCLE-I, KOLKATA Versus M/s. VIJAY SHREE LIMITED [2011 (9) TMI 30 -CALCUTTA HIGH COURT] and Essae Teraoka (P) Ltd.vs DCIT [2014 (3) TMI 386 - KARNATAKA HIGH COURT] - Decided in favour of assessee.

Judgement/Order

Shri N. S. Saini, Accountant Member

Assessee by : None (Adjournment petition)

Revenue by : Shri Sevendu Dutta, DR

ORDER

1. This an appeal filed by the assessee against order of CIT (A)-1, Bhubaneswar dated 8th July, 2016, for the assessment 2012-2013.

2. The sole issue involved in this appeal is that the Id CIT (A) erred in confirming the disallowance of employees contribution to PF and ESI amounting to ₹4,02,695/- in view of the fact that the said amounts were not deposited before the due date under the respective Act.

3. Ld A.R. of the assessee has filed an adjournment petition, which was rejected on the ground that the reason for seeking adjournment was not plausible.

4. I have heard Id D.R. and perused the orders of lower authorities and materials available on record. In the instant case, the Assessing Officer found that the assessee had not remitted the employees contributions towards EPF and ESI totalling 4,02,695/- within the due date as specified in the respective statutes. Accordingly, he disallowed the same u/s. 36(1)(va) r. w. s 2(24)(x) of the Act.

5. On appeal, Id CIT (A) confirmed the action of the Assessing Officer relying on the decision of Hon'ble Gujarat High Court in the case of CIT vs. Gujarat State Road Transport Corporation (Tax Appeal No.637 of 2013).

6. After hearing Id D.R., I find that the Hon'ble Karnataka High Court in the case of Essae Teraoka (P) Ltd. vs DCIT, (2014) 366 ITR 408 vide judgment dated 4.2.2014 held that the word contribution would mean in EPF and ESI Act refers to both employees and employers contribution to PF and, therefore,

no disallowance is to be made under section 43B. Therefore, deduction is also available to employees contribution to PF U/S.43B of the Act Further, the Hon'ble Rajasthan High Court in the case of CIT Vs State Bank of Bikaner and Jaipur (2014) 363 ITR 70 (Raj) (HC). and Jaipur Vidyut Vitaran Nigam Lytd., (2014) 363 ITR 307 (Raj) held that section 43B overrides section 36(1)(va) and deduction is available for employees contribution u/s.43B of the Act To same effect is the decision of Hon'ble Uttarakhand High Court in the case of CIT vs.Kichha Sugar Company Ltd . (2013) 356 ITR 351 (Uttarakhand-HC) order dated 20.5.2013. To the same effect is also the decision of Hon'ble Rajasthan High court in the case of CIT vs. Udaipur Dugdha Utpadak Sahakari Sangh Ltd (2013) 35 taxmann.com 616 (Raj). The contrary view is that of Hon'ble Gujarat High Court in the case of CIT vs Gujarat State Road Transport Corpn. (2014) 366 ITR 170 (Guj) order dated 26.12.2013, wherein, it was held that 43B does not apply to employees contribution and only section 2(24)(x) read with section 36(1)(va) is applicable, which is relied upon by Id CIT(A) in his order for confirming the disallowance. Therefore, employee's contribution is disallowed if not paid within the due date as per EPF/ESI Act. The said decision was rendered after considering the decision of Hon'ble Supreme Court in the case of Alom Extrusions (supra). The Hon'ble Calcutta High Court in the case of CIT vs Vijaya Shree Ltd., (2011) TMI 30 held that employees contribution to PF/ESI is also covered by section 43B and is allowable as deduction if paid before due date of filing the return of income. The Hon'ble Bombay High Court in the case of CIT Vs. Ghatge Patil Transports Ltd. in IT Appeal Nos.1002 & 1034 of 2012, vide order dated 14.10.2014 has held that employees contribution to PF and ESI is allowable if the same is deposited before the due date of filing of return of income u/s.2(24)(x) r.w.s. 36(1)(va) and 43B of the Act. The Hon'ble Delhi High Court in CIT Vs. AIMIL Limited [2010] 321 ITR 508 (DEL) has held that the employees' contribution towards EPF and ESI etc. deposited after the due date but before the time allowed for filing the return u/s. 139(1) will not call for any disallowance u/s.36(1)(va)

7. It is also settled position of law that if there are contrary views of different High Courts and none of them is the Hon'ble Jurisdictional High Court, then the decision favourable to the assessee should be followed. My view is supported by the decision of Hon'ble Supreme Court in the case of CIT vs. Vegetables Product Ltd., 88 ITR 192 (SC). Therefore, respectfully following the decision of Hon'ble Karnataka High Court in the case of Essae Teraoka (P) Ltd.vs DCIT (supra) and other decisions referred above (supra), I hold that employees contribution to PF and ESI is allowable deduction to the assessee if deposited before due date of filing of return u/s. 139(1) of the Act.

8. In the instant case, it is not in dispute that the contribution to PF and ESI was deposited by the assessee before due date of filing the return of income u/s. 139(1) of the Act. Therefore, I set aside the orders of lower authorities and delete the disallowance of employees contribution to PF and ESI of " 4,02,695/- and allow the ground of appeal of the assessee.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 30 /11/2016.

Citations: in 2017 (1) TMI 42 - ITAT CUTTACK

1. Commissioner of Income Tax Versus M/s. Alom Extrusions Limited - 2009 (11) TMI 27 - SUPREME COURT
2. Commissioner of Income-Tax. West Bengal I Versus Vegetable Products Limited - 1973 (1) TMI 1 -SUPREME Court
3. The Commissioner of Income tax Versus Ghatae Patil Transports Ltd. - 2014 (10) TMI 402 - BOMBAY HIGH COURT
4. M/s ESSAE TERAOKA PVT LTD Versus DEPUTY COMMISSIONER OF INCOME-TAX - 2014 (3) TMI 386 - KARNATAKA HIGH COURT
5. Commissioner of Income Tax Versus M/s. State Bank of Bikaner & Jaipur and Jaipur Vidyut Vitaran Niqam Ltd. - 2014 (5) TMI 222 - RAJASTHAN HIGH COURT
6. COMMISSIONER OF INCOME TAX. JAIPUR-II Versus JAIPUR VIDYUT VITRAN NIGAM LTD AND RAJASTHAN RAJYA VIDYUT UTPADAN NIGAM LTD - 2014 (1) TMI 1085 - RAJASTHAN HIGH COURT
7. COMMISSIONER OF INCOME TAX II Versus GUJARAT STATE ROAD TRANSPORT CORPORATION -2014 (1) TMI 502 - GUJARAT HIGH COURT
8. The Commissioner of Income Tax Versus M/s Kichha Sugar Company Ltd. - 2013 (6) TMI 98 -UTTARAKHAND HIGH COURT
9. Commissioner of Income Tax, Udaipur Versus M/s. Udaipur Duqdh Utpadak Sahakari Sangh Limited. Udaipur - 2014 (8) TMI 677 - RAJASTHAN HIGH COURT
10. COMMISSIONER OF INCOME TAX, CIRCLE-I. KOLKATA Versus M/s. VIJAY SHREE LIMITED - 2011 (9) TMI 30 - CALCUTTA HIGH COURT
11. Commissioner of Income Tax Versus AIMIL Limited, Nirmala Swami. Spearhead Digital Studio, M/s. Net 4 India Ltd., Modipon Ltd., & M/s. Ekta Agro Industries Ltd., - 2009 (12) TMI 38 -DELHI HIGH COURT

Case Name: **Shri Ashok Kumar Rai Vs. The Joint Commissioner of Income Tax (ITAT Bangalore)**

Appeal Number: ITA No. 1705/Bang/2016

Date of Judgement/Order: 08/09/2017

Related Assessment Year: 2011- 12

Courts: All ITAT (4238) ITAT Bangalore (195)

In this case AO has made addition merely on the basis of ledger extract filed by the assessee on the assumption that the said payments are interest payments which attracts TDS under the provisions of section 194A of the Act, without conducting further inquiries in the background of the assessee's claim that the said payments are loss from subscription to chits. The AO should have conducted necessary inquiries before making the dis allowance u/s. 40(a)(ia). The AO has not exercised his option to conduct the necessary inquiries and made the addition purely on suspicion and surmises, based on the ledger extract ignoring the evidence filed by the assessee to claim that the said amount is loss on account of chit which was wrongly booked under the head interest payment to MCI Leasing Ltd. At the same time, the assessee, though claims said payment is not interest, but chit loss, failed to furnish

required evidence. If payment to MCI Leasing Ltd. is on account of chit loss, then, the question of TDS does not arise. Consequently, no dis allowance of expenditure u/s. 40(a)(ia). Therefore, we set aside the issue to the file of Assessing Officer and direct him to examine the issue in the light of claim of assessee that the said amount is loss on chit account which does not come under the purview of provisions of section 194A of the Act.

Case Name: **Narendra Plastic Private Limited Vs Union of India & Ors.
(Delhi High Court)**

Appeal Number: W.P. (C) No. 6534/2017 & C.M. No. 27111/2017

Date of Judgement/Order: 11/09/2017

Related Assessment Year:

Courts: All High Courts (3666) Delhi High Court (1164)

Delhi High Court on appeal by Narendra Plastic Private Limited directed as under:

- i. The Petitioner will be permitted to clear the consignments of imports constituting inputs for the fulfilment of its export orders placed on it prior to 1st July 2017 without any additional levies, and subject to the quantity and value as specified in the advance authorization licenses issued to it prior to 1st July 2017.
- ii. The above clearance would be subject to (a) verification by the Customs Department that it is in conformity with the quantity and value as mentioned in the Advance Authorization license and (b) ensuring that the extent of credit is available vis-a-vis such Advance Authorization licenses issued prior to 1st July 2017.
- iii. The above interim direction is further subject to the Petitioner furnishing an undertaking by way of an affidavit filed in this Court within one week from today to the effect that in the case of the Petitioner ultimately not succeeding in this writ petition, or failing to fulfil its export obligations, it is liable to pay the entire IGST as was leviable, together with whatever interest as the Court may determine at the time of final disposal of the writ petition.
- iv. The Petitioner will furnish to the Customs Department the entire list of its Advance Authorizations that are valid as on 1st July 2017 and a list of the export orders placed on the Petitioner prior to 1st July 2017.
- v. It is made clear that the above interim direction will only apply to those imports which are made by the Petitioner for fulfilment of its export orders placed with it prior to 1st July 2017 and not to any export order thereafter.

Case Name: **Pr. CIT Vs Tehal Singh Khara & Sons (Punjab and Haryana
High Court)**

Appeal Number: ITA No. 248 of 2017 (O&M)

Date of Judgement/Order: 17/07/2017

Related Assessment Year:

Courts: All High Courts (3666)

Punjab and Haryana High Court held in the case of Pr. CIT Vs Tehal Singh Khara & Sons that Penalty under section 271D of Income Tax Act, 1961 not justified for Contravention of section

269SS if assessee had given reasonable cause for entering into the cash transactions, as creditors from whom the cash was received and repaid were identifiable agriculturists and there was confirmation of the money having been deposited and returned.

The assessing officer in his remand report submitted that the persons from whom cash was received and was subsequently repaid were identifiable agriculturists. It was also submitted in the remand report that the said persons had filed a copy of jamabandi to indicate that agricultural operations were being conducted on their land.

Ordinarily, reasonable cause would mean an honest belief founded upon reasonable grounds of the existence of a state of circumstances which (assuming them to be true), would reasonably lead any ordinary, prudent and cautious person (placed in the position of the person concerned) to come to the conclusion that the same was the right thing to do. The cause has to be considered and only if it is found to be frivolous, without substance or foundation, as held by the Honorable Delhi High Court in the case of the *Wood Ward Governors of India (P) Ltd. Civil Writ Petition No. 7066 Of 2000, date 19-4-2001*. Penalty can be imposed. In the context of penalty provisions, words “reasonable cause” would definitely mean a cause which is beyond the control of the appellant.

In the appellant’s case, the business exigencies of making cash payment to farmers for the purposes of both-honoring commitment as also to help them cannot be denied. The remand proceedings found the creditors to be genuine agriculturists and their cash transactions also to be genuine, in as much as there was a confirmation of the money having been deposited and returned. The said impugned transactions also cannot be said to have been aimed at or attempting to evade tax, thereby causing loss to revenue. In such circumstances, it can reasonably be held that the breach of the statutory provisions contained in **section 269SS** & 269T of the Act flowed by a *bona fide* belief, which is *ex facie* a venial breach. It may also be appreciated that the Honorable Supreme Court, while hearing the constitutionality of the provisions of section 269SS, observed that the undue hardship emanating from the said provision, perceived to be expropriatory in nature, is very much mitigated by the inclusion of **section 273B** (2002) 255 ITR 258. Following the judicial precedents, including that of the jurisdictional High Court of Punjab and Haryana, it is held that the imposition of penalty under sections 271D & 271E of the Act, in the circumstances, was not justified.

Case Name: **Sai Prasanthi Realtors & Sai Eswar Real Estates & Developers
Vs Dy. CIT (ITAT Hyderabad)**
Appeal Number: ITA Nos. 856, 857, 858 & 859/Hyd/16
Date of Judgement/Order: 26/05/2017
Related Assessment Year:
Courts: All ITAT (4238) ITAT Hyderabad (239)

ITAT Hyderabad held in the case of Sai Prasanthi Realtors & Sai Eswar Real Estates & Developers v. Dy. CIT that if assessee has obtained audit report before due date, but did not enclose audit report along with return of income due to CBDT instructions in this regard then, imposition of penalty under section 271B was not justified.

As seen from the order of the assessing officer under section 153C, it is very clear that assessing officer has initiated penalty proceedings for not enclosing the audit report, but not for completing the audit before the due date. Board Circular No. 5 of 2007 clearly states that while uploading the return, no audit report should be attached to the return and also further states that it should not be furnished separately also before or after due date. Non-enclosure of audit report to the return of income does not attract any penalty u/s. 271B, as specified in the Board Circular extracted above. Since assessing officer has initiated the penalty proceedings only for non-enclosure of audit report along with the Return, we are of the opinion that the same is not attracting penalty, on the facts of the case, as assessee has complied with the Board Circular. If the audit report was not enclosed to the return of income filed by assessee subsequently in response to proceedings under section 153C, assessing officer should have treated the return as defective return. No such action was taken by the assessing officer, which indicates that the return is complete in all respects. Since prior approval of the Addl. Commissioner under section 153D was also taken by the assessing officer before completion of assessment, we are of the opinion that non enclosure of audit report to the return of income does not attract penalty proceedings under section 271B. Accordingly, penalty levied is cancelled.

Case Name: **CIT Vs S.V. Gopala Rao (Supreme Court of India)**
Appeal Number: Civil Appeal No(S). 4901/2010
Date of Judgement/Order: 13/07/2017
Related Assessment Year:
Courts: Supreme Court of India (888)

In CIT vs. S.V. Gopala Rao [Civil Appeal No(S). 4901/2010, decided on 13.07.17], the Central Board of Direct Taxes (CBDT) issued a Circular under Section 119 of the Income Tax Act, 1961 (herein referred to as 'the Act'). In fact, it amended the provisions contained in Rule 68B of the IIInd Schedule to the Act, which otherwise have statutory force. Honorable Supreme Court held that such legislative provisions cannot be amended by CBDT in exercise of its power under Section 119 of the Act. The High Court has, therefore, rightly held the circular ultra virus and quashed the same.

Earlier, in S.V. Gopala Rao vs. CIT[(2004) 192 CTR AP 530, 2004 270 ITR 433 AP], the controversy was very short and mostly the material facts were not at dispute. The petitioners challenged a sale on the ground that the sale was effected beyond time. The dates which were material were not in dispute. The order became final somewhere in 1991-92 and according to Rule 68B of the Act, the order had to be deemed to have come into force from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum had been attached had become conclusive. As such, the time would start running from March 31, 1993, since Rule 68B of the Act itself was incorporated by the Finance Act, 1992, with effect from June 1, 1992. Therefore, June 1, 1992, was taken as a date for reference. The assessment, in the case, had been completed before June 1, 1992. In between, the Department tried to auction the property but cancelled the auction because the price procured in such auction was not acceptable to the Department. Therefore, the Department claimed one year's further time in accordance with the proviso to Sub-rule (1) of Rule 68B of the Act. The matter was also pending in the High Court and almost for a period of five years the High Court continued the stay. Therefore, senior counsel appearing for the respondents submitted that the time

during which the stay of the High Court remained operative had to be excluded. He also contended that one year's further time had to be granted because in one of the auctions, the property was not sold. He further contended that there has been amendment to Rule 68B of the Act, vide Notification No. 9995 dated March 1, 1996 (see [1996] 218 ITR (St.) 121), by which the period of three years mentioned in Rule 68B of the Act had been extended to four years. Therefore, the auction, which was conducted on February 19, 2003, was within time, as the order had become conclusive by the deeming provision in Rule 68B(3) of the Act by March 31, 1993. Learned counsel for the petitioners did not dispute this factual position but he contended that the so called amendment to Rule 68B by Notification No. 9995 [see (1996) 218 ITR (St.) 121], could not be given effect to as it was ultra vires. He submitted that Rule 68B itself was inserted by the Finance Act, 1992, by an Act of Parliament. An Act of Parliament could not be amended by any authority whatsoever much less by the Board under its powers under **Section 119** of the Act.

Senior counsel appearing for the respondents, on the other hand, submitted that under Rule 94 of the Act, CBDT has power to issue circulars for removing difficulties.

The learned Judges of the Andhra Pradesh High Court held that we fail to understand what difficulty was removed by CBDT by amending a provision which had been enacted by Parliament. Even otherwise, we have not seen any power under Section 119 of the Act, which gives any power to the Board to issue such notifications. Therefore, in our view, Rule 68B(1) of the Act as on today lays down the period of three years alone and the notification referred to by the respondents has no effect at all. Therefore, clearly the sale was carried out beyond time and as such is set aside.

Case Name: **Principal Commissioner of Income Tax – 7 Vs Bikram Singh (Delhi High Court)**
Appeal Number: ITA 55/2017
Date of Judgement/Order: 25/08/2017
Related Assessment Year:
Courts: All High Courts (3666) Delhi High Court (1164)

Transactions in the present appeal are example of the constant use of the deception of loan entries to bring unaccounted money into banking channels. This device of loan entries continues to plague the legitimate economy of our country. As seen from the facts narrated above, the transactions herein clearly do not inspire confidence as being genuine and are shrouded in mystery, as to why the so-called creditors would lend such huge unsecured, interest free loans – that too without any agreement. In the absence of the same, the creditors fail the test of creditworthiness and the transactions fail the test of genuineness. The findings of the CIT (A) are upheld and the order of the ITAT dated 19th July, 2016 is set aside to the extent of the deletion of four entries. The deletions made in respect of the transactions of the Assessee with Shri Amar Singh, Shri Chandan Singh, Shri Ram Charan/Ram Chander and Smt. Sunita to the tune of ₹50,00,000/-, ₹1,10,00,000/-, ₹10,00,000/- and ₹98,00,000/-, respectively, are liable to be added back to the returned income of the Assessee for the relevant AY, under Section 68 of the Act.

1. In the present Appeal, the Principal Commissioner of Income Tax - 7, impugns the order dated 19th July, 2016 passed by the Income Tax Appellate Tribunal (‘ITAT’) in ITA No. 5609/Del/2015 for Assessment Year 2011-12.

2. Admit. The following question of law is framed for consideration:

*“Whether the ITAT was correct in law in deleting the addition under **Section 68** of the Income Tax Act, 1961 in respect of four individuals when the genuineness of the transactions and the creditworthiness of the said four individuals were in serious doubt?”*

3. The Respondent- Assessee filed its return of income for AY 2011-12 on 17th August, 2011 declaring a total income of ₹80,45,590/-. During the assessment proceedings, the Assessing Officer, on 13th March 2014, made additions under Section 68 of the Income Tax Act, 1961 (‘the Act’) to the tune of ₹3,25,50,000/- in respect of loans/advances received from eight persons, on the ground that the Assessee was unable to establish the identity, creditworthiness and genuineness of the said persons and transactions.

4. The details of the loans/advances, received by the Assessee, as recorded by the AO, are:

S. No.	S. No. as per list	Name of the Creditor	Amount
1.	2.	Amar Singh	₹ 50,00,000/-
2.	4.	Chandan Singh	₹ 1,10,00,000/-
3.	5.	Harpreet Singh	₹ 3,50,000/-
4.	9.	Om Prakash	₹ 9,00,000/-
5.	11.	Ram Charan	₹ 10,00,000/-
6.	12.	Shiv Tej	₹ 25,00,000/-
7.	13.	Sunita	₹ 98,00,000/-
8.	15	Virender Yadav	₹ 20,00,000/-

5. In the appeal filed by the Assessee, the Commissioner of Income Tax (Appeals) [‘CITA (A)’], on 7th September, 2015, upheld the said additions made by the Assessing Officer (‘AO’).

6. The ITAT, in the appeal filed by the Assessee, deleted the additions in respect of the following four persons:

(i)	Shri Amar Singh	₹ 50,00,000/-
(ii)	Shri Chandan Singh	₹ 1,10,00,000/-
(iii)	Shri Ram Charan	₹ 10,00,000/-
(iv)	Smt. Sunita	₹ 98,00,000/-

In respect of the remaining four creditors, the ITAT restored the same to the file of the AO for reconsideration.

7. The Revenue has filed the present appeal challenging the said order of the ITAT dated 19th July, 2016.

TAX COMPLIANCE CALENDAR AT A GLANCE

DIRECT TAX

TAX CALENDAR - OCTOBER

7. 10. 2017:

- Due date for deposit of tax deducted/collected for the month of September, 2017. 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
- Due date for deposit of TDS for the period July 2017 to September 2017 when Assessing Officer has permitted quarterly deposit of TDS under [Section 192](#), [194A](#), [194D](#) or [194H](#)

15. 10. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of September, 2017 has been paid without the production of a challan
- Due date for issue of TDS Certificate for tax deducted under [Section 194-IA](#) in the month of August, 2017
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September, 2017
- Quarterly statement of TCS deposited for the quarter ending September 30, 2017

30. 10. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under [Section 194-IA](#) in the month of September, 2017
- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2017

31. 10. 2017:

- Quarterly statement of TDS deposited for the quarter ending September 30, 2017.
- Due date for furnishing of Annual audited accounts for each approved programmes under [section 35\(2AA\)](#)
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2017

TAX CALENDAR - NOVEMBER

07. 11. 2017:

- Due date for deposit of Tax deducted/collected for the month of October, 2017. 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. 11. 2017:

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

15. 11. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of October, 2017 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 September 30, 2017

30. 11. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of October, 2017.
- Annual return of income for the assessment year 2017-18 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
- Audit report under section 44AB for the assessment year 2017-18 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
- Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during 2016-17.
- Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2016-17) to units holders.
- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA & Form 3CEFB
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2016-17. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A
- Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2017).
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on November 30, 2017)
- Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]

TAX CALENDAR - DECEMBER

07. 12. 2017:

- Due date for deposit of Tax deducted/collected for the month of November, 2017. 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. 12. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2017 has been paid without the production of a challan.
- Third instalment of advance tax for the assessment year 2018-19
- Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of October, 2017

30. 12. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of November, 2017.

GST Calendar:

Return Period	Return Type	Due Dates
July 2017	GSTR-1 (Outward Supply Monthly Return)	10 th October 2017*
	GSTR-2 (Inward Supply Monthly Return)	31 st October 2017*
August 2017	GSTR-1 (Outward Supply Monthly Return)	5 th October 2017**
	GSTR-2 (Inward Supply Monthly Return)	10 th October 2017**
	GSTR-3 (Auto-populated consolidated monthly return)	15 th October 2017**
September 2017	GSTR-3B	20 th October 2017 [^]
Transition Return	GST TRAN-1 (To carry forward credits from previous regime)	31 st October 2017***

*Due Dates as per the Notification No. 30/2017-Central Tax issued by the Government on 11th September 2017

**Due dates for GSTR-1, GSTR-2 and GSTR-3 for the month of August were issued earlier. However, in view of the fact that July 2017 due dates have been extended, the Government shall Notify fresh due dates shortly.

*** Due Date extended till 31st October 2017 based on Order No. 3 issued by GST Commissioner on 18th September 2017

[^]Due Date provided vide Notification No. 35/2017-Central Tax issued by Government on 15th September 2017

Corporate Compliance Calendar : April 2017 to March 2018 (as on 1 April 2017)													
		Quarter 1			Quarter 2			Quarter 3			Quarter 4		
Compliance	Details	Apr '17	May '17	Jun '17	Jul '17	Aug '17	Sep '17	Oct '17	Nov '17	Dec '17	Jan '18	Feb '18	Mar '18
Withholding tax (Monthly & Quarterly)	Deposit of withholding tax (within 7 days from end of month, for all months except March 2017)		7th	7th	7th	7th	7th	7th	7th	7th	7th	7th	7th
	Deposit of withholding tax (March 2017)	30th											
	Filing of withholding tax return (for all quarters except Jan-Mar 2017)				31st				31st			31st	
	Filing of withholding tax return (Jan-Mar 2017)		31st										
	Issue of TDS certificate (quarterly for non-salary payments, annually for salary payments)		For salary payments 31st	For non salary payments 15th		For non salary payments 15th			For non salary payments 15th			For non salary payments 15th	
Advance Tax (Quarterly)	Quarterly deposit of Advance Tax based on estimated annual total income of the year 2017-18			15th			15th			15th			15th
Tax Audit & Corporate Tax Return (Annual)	Transfer Pricing Report in Form 3CEB for FY 2016-17								30th				
	Corporate tax return for FY 2016-17		30th (Form 49C) - For Foreign companies having Liaison Office in India				30th (where transfer pricing laws are not applicable)		30th (where transfer pricing laws are applicable)				
	Deposit of service tax (for all months except March 2018)		6th	6th	6th	6th	6th	6th	6th	6th	6th	6th	6th
	Deposit of service tax (March 2018)												31st
	Filing of service tax return for Apr 2017 to Sep 2017 (transition into GST to be considered)							25th					
	Filing of service tax return for Oct 2016 to Mar 2017	25th											
Statutory audit (Annual)	Statutory audit for FY 2016-17						30th						
	Registration/Migration to GST	30th											
	Return of outward supply for every month					10th	10th	10th	10th	10th	10th	10th	10th
	Return of inward supply for every month					15th	15th	15th	15th	15th	15th	15th	15th
	Monthly GST Return					20th	20th	20th	20th	20th	20th	20th	20th
Company law (Quarterly, Annual & Event Based)	Board of Directors' meetings	Atleast 4 Quarterly Board Meetings in a year											
	Annual General Meeting							30th					
	Filing of Form ADT-1 (appointment of auditor with Registrar of Companies)							Within 15 days of Annual General Meeting					
	Filing of Form AOC-4 with Registrar of Companies (annual report including balance sheet and profit and loss statement)							Within 30 days of Annual General Meeting					
	Filing of Form MGT-7 with Registrar of Companies (annual return)							Within 60 days of Annual General Meeting					
RBI / Foreign exchange law	Filing of Annual statement of assets and liabilities for FY 2016-17 with RBI (applicable in case of company having foreign investment)				15th								

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