

# TAX CONNECT

**Knowledge Partner:**

**The Bengal Chamber of Commerce & Industry**



**INCOME TAX**

A central graphic with a blue rounded rectangular border. Inside, the letters 'GST' are written in large, bold, green font. Below 'GST', the words 'Goods & Services Tax' are written in a smaller, black, sans-serif font. The background of the graphic is a blurred image of Indian currency notes.

**GST**  
Goods & Services Tax

**CUSTOMS**

## **TAX CONNECT**

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## EDITORIAL



**Friends,**

The 28th meeting of the GST Council will be held in New Delhi on Saturday, the 21st of July, 2018 from 11:00 hours. Prior to that, a preparatory meeting of officers will be held in New Delhi on Friday, the 20th of July, 2018 from 10:00 hours. The Revenue Secy Mr Hasmukh Adhia has already stated that while it may seem that the GST Council is not very active in the last few weeks, on the other hand hectic activity is being carried out by the officers in the back office. Some major changes in the return filing process and rules are expected this time.

The Goods and Services Tax regime in India is now 1 Year Old. Hence it is an apt time to take a look at what to expect in G2.0.

### 1. Petro Products in GST

Considerable talk is going on in this regard. It is expected that Aviation Turbine Fuel & Natural Gas may be brought under GST in the first phase and thereafter other products like petrol, diesel and crude oil will be phased in.

### 2. Compliance & Return Filing under GST

This has got the biggest thumbs down from Industry in GST. The IT part of GST by and large has been a topsy turvy ride. It has still not fully stabilized to say the least.

The constant change in the GST Law made it further difficult for the GST Portal to settle down.

The good part is that GSTR 2 & GSTR 3 have been kept suspended and are expected to be withdrawn without seeing light of day. Further a simplified return is expected wherein there will be only 1 return per month.

### 3. Reverse Charge

Reverse charge on unregistered purchases under GST was a major hurdle for the Trade, especially the small traders who could not follow the nitty gritty attached to the compliance.

The same has been kept in abeyance from 13<sup>th</sup> October 2017 till 30<sup>th</sup> Sep 2018 as of now. However Reverse charge remains the heart of GST is expected to re surface in G.2.0.

Further reverse charge on unregistered purchase has the potential to increase Income Tax Revenue more than GST revenue as tax avoidance would be seriously plugged by this compliance.

### 4. GST on advances received for Supply of goods Goods

The same is withdrawn from 15<sup>th</sup> November 2017. It was a major hurdle for traders and its withdrawal is a decision in the right direction

### 5. Refunds

Again the Industry suffered tremendously in the first 6 months due to IT issues in generating refunds. However the Govt has taken the task head on and the process is now streamlined.

In G.2.0 refunds are expected to be smooth.

## EDITORIAL

**6. Advance Ruling**

This has been a major dampner in the last 3 months or so. The decisions pronounced by the advance ruling authorities were most revenue biased and many a times against the intent of law. The issue which came out was that the Authority consisted of 1 SGST Officer and 1 CGST Officer and justice was invariably denied.

It is expected to have a Central Advance Ruling Authority consisting of Ex-Judiciary members in G.2.0 if Advance Ruling has to have any significance under GST.

**7. Anti Profiteering**

Thank fully Inflation was kept under control post GST Implementation. Infact this is a major achievement of the Govt.

Due to the fact that inflation was under control, the Anti Profiteering Authority did not see much activity. It may as well wind up within its stipulated time of 2 years.

**8. Human factor**

In G.2.0, this will be the most critical factor. In this phase the assessments and scrutiny of the Department will be high as the Department now has the data of 1 year to work on.

Under GST the notices and communication is generally expected to be digital. If the same is followed in letter and spirit, we will certainly witness a significant improvement in Tax Administration and the Honest Tax Payers will be able to carry out their businesses without hassle.

**9. ITC**

Under GST ITC can be availed for all business expenses barring on those which are specifically blocked.

Now, 85% of the total payout of output tax has been by means of utilization of ITC. This would be a major area of focus of The Revenue Authorities as even a 5% reduction will yield significant results.

While there may be stray incidents of excess/ingenuine claim of ITC, the Department and officers must be trained well so as to not raise frivolous demands and thus put the courts and assesses under the burden of unnecessary litigation.

**10. Matching**

Matching of ITC claimed by the recipient and the tax paid by the supplier on the basis of GSTR 2A has been the focal point on which the GST wheel rotates.

**We may see heightened activity in this area in G.2.0.**

In the new return the claim of ITC is expected to be simplified further wherein the GST Portal will give reports on the ITC matched.

**We do hope that this bulletin adds value to your professional sphere.**

**Just to reiterate that we remain available over telecom or e-mail.**

**Truly Yours**

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## TAX CALENDAR

| Due date                   | COMPLIANCES FOR THE MONTH OF JULY 2018    | Description   |
|----------------------------|---|---|
| 7 <sup>th</sup> July 2018  | Income Tax<br>Form: Challan Form ITNS 281 | Monthly payment of TDS on all types of payments   |
| 10 <sup>th</sup> July 2018 | GSTR 1                                    | Details of outward supplies of goods or services - Monthly Return for the month of June 2018  |
| 20 <sup>th</sup> July 2018 | GSTR 3B                                   | Details of Outward Supplies and inward supplies and payment of Tax - Monthly Return for the month of June 2018  |
| 31 <sup>st</sup> July 2018 | GSTR 6                                    | ISD - Return for input service distributor for the month of July 2017 to June 2018  |
| 31 <sup>st</sup> July 2018 | GSTR 1                                    | Details of outward supplies of goods or services –Quarterly Return for the month of April 2018 to June 2018   |
| 31 <sup>st</sup> July 2018 | Income Tax<br>Form: Form No. 27D          | Quarterly issuance of Certificate of collection of tax at source (TCS)  |
| 31 <sup>st</sup> July 2018 | Income Tax<br>Form: Form No. 27Q          | Quarterly Statement of deduction of tax at source (TDS) in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident for the quarter ending 30 <sup>th</sup> June, 30 <sup>th</sup> September or 31 <sup>st</sup> December |
| 31 <sup>st</sup> July 2018 | Income Tax<br>Form: ITNS - 280            | Deposit of Income Tax - Self-assessment tax   |

## GST: CGST

## NOTIFICATIONS/CIRCULARS

## PROCEDURE FOR INTERCEPTION OF CONVEYANCES FOR INSPECTION OF GOODS IN MOVEMENT, AND DETENTION, RELEASE AND CONFISCATION OF SUCH GOODS AND CONVEYANCES

**OUR COMMENTS:** The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 49/23/2018-GST dated 21<sup>st</sup> June, 2018** hereby circulates regarding Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances. It is further notified that amendments are made in Rule 58, 138C, 142 of Central Goods and Services Tax 2018 & FORM GSTR ENR-01.

It is further stated that the Circular No. 41/15/2018-GST dated 13.04.2018 was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

- In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;
- The statement after paragraph 3 in FORM GST MOV-05 should read as: “In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at \_\_\_\_ AM/PM.”

Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.

In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

For further information kindly refer the above mentioned notification.

## GST: IGST

## NOTIFICATION/CIRCULAR

## ADVANCE RULINGS

The Authority for Advance Rulings (AAR) have been set up in all the states and we have now over 50 advance rulings on different issues already pronounced by various State Authorities. However, appellate mechanism for filing appeals against AAR rulings is not yet in place and one is faced with this challenge. Another major issue presently being faced is about multiple authorities (equal to number of States), each pronouncing a ruling of its own even if the matter is covered by some other State AAR's rulings. There would be situations where we may have different rulings on same question(s). GST Council ought to decide on having a Centralized Authority as was there in erstwhile tax regime.

The summary of few more recent advance rulings pronounced by State Advance Ruling Authorities are discussed hereunder but these needs to be read in the background of the question involved:

Advance Ruling on taxability of scrap items

The Authority for Advance Ruling has ruled that disposal of scrap vehicles for consideration is a sale and section 7 explaining the expression 'supply' covers supply of such as sale or disposal made for a consideration. Section 7, further, says that the supply has to be in the course or furtherance of business. With regard to this, it is seen that the applicant is in the business of having a cash management network involving transportation of cash. The disposal of the cash carrying vans is a transaction in connection with or incidental or ancillary to the business of having a cash management network. As and when the vehicles become scrap, they have to be disposed of and the proceeds there from to be identified as income for the business which is reflected in the profit and loss account of the business. Buying new assets and discarding the old and unusable assets is an activity in the course of carrying on the business. Hence, supply of motor vehicles as scrap after its usage is an activity of 'supply' in course or furtherance of business and such transaction would attract GST.

Advance Ruling on Rate of Tax and Classification of Goods

In the instant case, applicant was a subsidiary of a leading US multinational Cargill Inc. Cargill provides food, agriculture, financial and industrial products and services to the world together with farmers, customers, governments and communities and helps people thrive by applying its market leading insights and 150 years of experience Cargill globally, has more than 155,000 employees in 70 countries who are committed to feeding the world in a responsible way, reducing environmental impact and improving the communities.

In India, the applicant is broadly engaged in the following businesses -

- Processing, refining and marketing Imported and Indigenous vegetable oils serving food industry customers with vegetable oils, fats, blends and bakery shortenings and serving household consumers with a portfolio of fortified and healthy branded edible oils
- Offering high quality food ingredients to serve food manufacturers and food service industry
- Origination, processing, storing, trading and marketing a wide range of agricultural commodities such as grains, oilseeds, sugar and cotton
- Offering premix, compound feed and therapeutic care products to nourish and treat animals
- One of the products manufactured by the Applicant is Natural Ester Dielectric Fluid, commonly known as Envirotemp FR3. The said product is manufactured by the Applicant in its Kurkumbh plant in Maharashtra and thereafter sold from there.

## GST: SGST/UTGST

### NOTIFICATIONS/CIRCULARS

#### PERISHABLE OR HAZARDOUS GOODS THAT MAY BE DISPOSED OF AFTER SEIZURE

**OUR COMMENTS:**The Commercial Taxes Department, Government of West Bengal vide **Notification No.27/2018-State Tax dated 13th June, 2018** hereby notifies regarding perishable or hazardous goods that may be disposed of after seizure.

The Commercial Taxes Department, Government of Tripura vide **Notification No.F.1-11(91)-TAX/GST/2018 dated 13th June, 2018** hereby notifies regarding perishable or hazardous goods that may be disposed of after seizure.

The Commercial Taxes Department, Government of Tamil Nadu vide **Notification No.G.O. (MS) NO.67 - Tamil Nadu SGST dated 13th June, 2018** hereby notifies regarding perishable or hazardous goods that may be disposed of after seizure.

The Commercial Taxes Department, Government of Gujarat vide **Notification No.27/2018-STATE TAX SGST dated 13th June, 2018** hereby notifies regarding perishable or hazardous goods that may be disposed of after seizure.

The Commercial Taxes Department, Government of Bihar vide **Notification No.S.O. 185 - Bihar SGST dated 13th June, 2018** hereby notifies regarding perishable or hazardous goods that may be disposed of after seizure.

It further states that the goods or the class of goods (hereinafter referred to as the said goods) mentioned in the Schedule below, which shall, as soon as may be after its seizure under section 67(2) of the SGST Act, be disposed of by the proper officer, having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods.

- Salt and hygroscopic substances
- Raw (wet and salted) hides and skins
- Newspapers and periodicals
- Menthol, Camphor, Saffron
- Re-fills for ball-point pens
- Lighter fuel, including lighters with gas, not having arrangement for refilling
- Cells, batteries and rechargeable batteries
- Petroleum Products
- Dangerous drugs and psychotropic substances
- Bulk drugs and chemicals falling under Section VI of the First Schedule to the Customs Tariff Act, 1975
- Pharmaceutical products falling within Chapter 30 of the First Schedule to the Customs Tariff Act, 1975
- Fireworks
- Red Sander
- Sandal wood
- All taxable goods falling within Chapters 1 to 24 of the First Schedule to the Customs Tariff Act, 1975
- All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc.
- Any goods seized by the proper officer under section 67(6) of the SGST Act, but provisional release has not been taken by the concerned person within a period of one month from the date of execution of the bond for provisional release.

#### REVERSE CHARGE ON CERTAIN SPECIFIED SUPPLIES OF GOODS

**OUR COMMENTS:**The Commercial Taxes Department, Government of Uttar Pradesh vide **Notification No.KA.NI.-2-1093/XI-9(42)/17- - Uttar Pradesh SGST dated 13th June, 2018** hereby notifies regarding reverse charge on certain specified supplies of goods.

It is further notified that in case of priority sector lending certificate the supplier of goods and recipient of supply shall be any registered person .

For further information kindly refer the above mentioned notification.



# INCOME TAX

## ANALYSIS

### CENTRAL GOVERNMENT NOTIFIES IN A CASE WHERE A FOREIGN COMPANY IS SAID TO BE RESIDENT IN INDIA ON ACCOUNT OF ITS PLACE OF EFFECTIVE MANAGEMENT

**OUR COMMENTS:**The Department of Revenue, Ministry of Finance, Government of India vide **Notification No.29/2018 dated 22nd June, 2018** hereby notifies regarding the Central Government notifies in a case where a foreign company is said to be resident in India on account of its Place of Effective Management.

- in a case where a foreign company is said to be resident in India on account of its Place of Effective Management (hereinafter referred to as PoEM) being in India under sub-section (3) of section 6 of the Act in any previous year and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in the Act, the provisions of the Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply to the foreign company for the said previous year with exceptions, modifications and adaptations specified here under:
- the exceptions, modifications and adaptations referred to in para A shall not apply in respect of such income of the foreign company becoming Indian resident on account of its PoEM being in India which would have been chargeable to tax in India, even if the foreign company had not become Indian resident.
- in a case where the foreign company is said to be resident in India during a previous year, immediately succeeding a previous year during which it is said to be resident in India; the exceptions, modifications and adaptations referred to in para A shall apply to the said previous year subject to the condition that the WDV, the brought forward loss and the unabsorbed depreciation to be adopted on the 1st day of the previous year shall be those which have been arrived at on the last day of the preceding

previous year in accordance with the provisions of this notification.

- any transaction of the foreign company with any other person or entity under the Act shall not be altered only on the ground that the foreign company has become Indian resident.
- subject to the above, the foreign company shall continue to be treated as a foreign company even if it is said to be resident in India and all the provisions of the Act shall apply accordingly. Consequently, the provisions specifically applicable to,-
  - a foreign company, shall continue to apply to it;
  - non-resident persons, shall not apply to it; and
  - the provisions specifically applicable to resident, shall apply to it,
- in case of conflict between the provision applicable to the foreign company as resident and the provision applicable to it as foreign company, the later shall generally prevail, Therefore, the rate of tax in case of foreign company shall remain the same, i.e., rate of income-tax applicable to the foreign company even though residency status of the foreign company changes from non-resident to resident on the basis of PoEM.

This notification shall be deemed to have come into force from the 1<sup>st</sup> day of April, 2017.

For further information kindly refer the above mentioned notification.

**CUSTOMS**

**NOTIFICATIONS/CIRCULARS**

**EXCHANGE RATES NOTIFICATION**

**OUR COMMENTS:**The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 55/2018 - Customs (N.T.) dated 21st June, 2018** hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in Schedule I and Schedule II, into Indian currency or vice versa, shall, with effect from 22nd June, 2018, be the rate mentioned, for the purpose of the said section, relating to imported and export goods.

**SCHEDULE-I**

| Foreign Currency    | Rate of exchange of one unit of foreign currency equivalent to Indian rupees |                    |
|---------------------|--|--------------------|
|                     | (For Imported Goods)   | (For Export Goods) |
| Australian Dollar   | 51.65  | 49.20              |
| Bahrain Dinar       | 186.60   | 174.80             |
| Canadian Dollar     | 52.25  | 50.40              |
| Chinese Yuan        | 10.70  | 10.35              |
| Danish Kroner       | 10.80  | 10.40              |
| EURO                | 80.30  | 77.35              |
| Hong Kong Dollar    | 8.85   | 8.55               |
| Kuwait Dinar        | 233.05   | 218.10             |
| New Zealand Dollar  | 48.00  | 45.85              |
| Norwegian Kroner    | 8.50   | 8.15               |
| Pound Sterling      | 91.35  | 88.15              |
| Qatari Riyal        | 19.30  | 18.25              |
| Saudi Arabian Riyal | 18.80  | 17.60              |
| Singapore Dollar    | 51.10  | 49.20              |
| South African Rand  | 5.15   | 4.85               |
| Swedish Kroner      | 7.80   | 7.55               |
| Swiss Franc         | 69.80  | 67.05              |
| UAE Dirham          | 19.20  | 18.00              |
| US Dollar           | 69.10  | 67.40              |

**SCHEDULE-II**

| Foreign Currency | Rate of exchange of 100 units of foreign currency equivalent to Indian rupees |                    |
|------------------|---|--------------------|
|                  | (For Imported Goods)  | (For Export Goods) |
| Japanese Yen     | 62.90   | 60.55              |

**PROVISIONAL ASSESSMENT OF NEW/UNUSED PNEUMATIC TYRES ORIGINATING IN OR EXPORTED FROM PEOPLE S REPUBLIC OF CHINA**

**OUR COMMENTS:**The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 34/2018-Customs (ADD) dated 25th June, 2018** hereby regarding providing for provisional assessment of new/unused pneumatic tyres originating in or exported from People s Republic of China by M/s Shandong Haohua Tire Co. Ltd. (Haohua) (Producer) through Guangzhou Exceed Industrial Technology Co. Ltd. (exporter) or H K Trade Wing Trading Limited (exporter) till the final findings of New Shipper Review in this regard are received.

It is further notified in the matter of import of New/unused Pneumatic radial tyres falling under the First Schedule to the Customs Tariff Act, 1975 originating in or exported from People’s Republic of China, the designated authority, vide its final findings in Notification No. 14/14/2015-DGAD, dated 1st August, 2017, had come to the conclusion that –

- the product under consideration has been exported to India from the subject country below normal value;
- the domestic industry has suffered material injury on account of subject imports from the subject country;
- the injury has been caused by the dumped imports of the subject goods from the subject country;

and had recommended imposition of definitive anti-dumping duty on imports of the subject goods originating in, or exported from, the subject country;

For further information kindly refer the above mentioned notification.

**AVAILABLE IN STANDS**

**A COMPENDIUM ON GOODS & SERVICES TAX**  
**(Including ALL Notifications till 09th July, 2017)**



**ABOUT THE BOOK:** PART A of the Book provides a Chapter wise and Topic wise Analysis of the Law. Along with this it provides Section and Rules where in the reader may find the Legal Provisions. It will help the reader to first understand the provision and then to exactly locate the provision. It provides an insight into the following:

1. Section-wise Compilation of IT Changes under GST
2. The GST Rates as finalised by The GST Council along with the HSN Code Referencer.
3. FAQs on GST
4. CGST, IGST, UTGST and The GST Compensation to States Acts
5. The Rules related to GST available in public Domain as on 17th June 2017.
6. The Forms and formats related to GST available in public Domain as on 17th June 2017.

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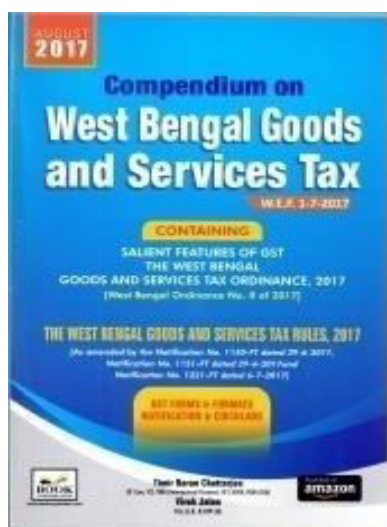
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**(Including ALL Notifications till date)**

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1. The Rules related to WBGST available in public Domain till date.
2. The Notifications, Circulars and Orders issued by The SGST Authority till date.
3. The Forms and formats related to GST available in public Domain till date.

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