

TAX CONNECT

Knowledge Partner:

The Bengal Chamber of Commerce & Industry



INCOME TAX

GST
Goods & Services Tax

CUSTOMS

TAX CONNECT

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EDITORIAL



Friends,

As we write this editorial, the GST Council meeting is on. The GST Rate on Finance Leasing is likely to be discussed in this meeting among other things.

Further in the recent N No 17/2017 CGST, the confusion was laid to rest that GSTR 3B needs to mandatorily be filed even though a dealer is filing his GSTR1, 2 & 3 for the month of July 17.

Now herein we discuss the issue of zero rating of exports with reference to Compensation Cess is discussed hereunder.

Why compensation Cess?

For the purposes of:

- Providing compensation to the States for loss of revenue arising on account of implementation of the GST w.e.f. the date from which the provisions of the CGST Act is brought into force.

How long Compensation Cess will charge?

- For a period of 5 years; or
- For such period as may be prescribed on the recommendations of the GST Council.

On which Goods/Services Compensation Cess is to be levied?

- The cess shall be levied on such supplies of goods and services as are specified in the

Schedule given in GST (Compensation to States) Act, 2017.

What will be the Basis of Value and rate for GST (Compensation to States) Act, 2017?

- On the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the Schedule given in GST (Compensation to States) Act, 2017 as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify.

What will be the rate of Compensation Cess?

- On the recommendation of GST Council, the effective rates of Compensation Cess leviable on various supplies, stand notified vide Notification No.1/2017-Compensation Cess (Rate).

Utilization of ITC in respect of cess

- The input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

Levy and Collection of Compensation cess?

- Section 8 of the GST (Compensation to States) Act, 2017 read with Section 9 of CGST Act, 2017 and Section 5 of the IGST Act, 2017 provides for levy and collection of Compensation Cess.

Inter State supply in relation to Export?

- As per Section 7(5) of IGST Act, 2017 “supply of goods or services or both, when the supplier is located in India and place of supply is outside India, will be treated as inter-state supply”

EDITORIAL

- Therefore, exports being inter-state supplies, they will be liable to Compensation Cess.

This is contradictory with the principle that “no taxes be exported, and exports have to be zero rated.”

Provisions related to Zero rated Exports.

Zero rated supply means any of the following supplies of goods or services or both, namely: –

- a) export of goods or services or both; or
- b) supply of goods or services or both to a SEZ developer or a SEZ unit

ITC on zero rated supply

Subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero-rated supplies; notwithstanding that such supply may be an exempt supply.

Options to claim refund by a registered person making zero rated supply:

- Supply goods or services or both under bond or Letter of Undertaking, without payment of integrated tax and claim refund of unutilised input tax credit; or
- Supply goods or services or both, on payment of IGST and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder”.

The provisions of the CGST and IGST Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of central tax and integrated tax on such intra state and inter-State supplies respectively under the said Act or the rules made thereunder.

As per section 11(2) of the Goods and Services tax (Compensation to States) Act, 2017 provisions of IGST Act, and the rules made thereunder, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder.

In view of the above, it is hereby clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply mutatis mutandis for the purpose of Compensation Cess (wherever applicable), that is to say that:

- a) Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3) (b) of the IGST, 2017];

OR

- b) No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under section 16(3) (a) of the IGST, 2017].

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 FROM 30 th July, 2017 to 05 th August, 2017	Name of State
10 th Aug	Filing of VAT Return/CST Return/Entry Tax Return (VAT Act)	West Bengal

GST: CGST

NOTIFICATIONS/CIRCULARS

EXTENSION OF TIME LIMIT FOR FILING INTIMATION FOR COMPOSITION LEVY

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Order No. 01/2017-GST dated 21st July, 2017-New Delhi** the Board hereby extends the period for filing an intimation in **FORM GST CMP-01** under sub-rule (1) of rule (3) of the Central Goods and Services Tax Rules, 2017 upto **16th August, 2017**.

ZERO RATED SUPPLY FOR THE PURPOSE OF COMPENSATION CESS ON EXPORTS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India vide **Circular No. 1/1/2017-Compensation Cess dated 26th July, 2017** the Clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of Compensation Cess on exports has been given and the major points are as follows:-

- On the recommendations of the Council, the compensation cess has been levied for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendations of the Council.
- The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule given in GST (Compensation to States) Act, 2017 on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule given in GST (Compensation to States) Act, 2017 as the Central Government may, on

the recommendations of the Council, by notification in the Official Gazette, specify.”

- When the supplier is located in India and place of supply is outside India, will be treated as inter-state supply. Therefore, exports being inter-state supplies, they will be liable to Compensation Cess. This however will not be in line with the principle that no taxes be exported, and exports have to be zero rated.
- Exporter will be eligible for refund of Compensation Cess paid on goods exported by him [on similar lines as refund of IGST under **section 16(3) (b) of the IGST, 2017**]; or
- No Compensation Cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of Compensation Cess relating to goods exported [on similar lines as refund of input taxes under **section 16(3) (a) of the IGST, 2017**].

GST: IGST

ANALYSIS

GST ON PURCHASES FROM UNREGISTERED PURCHASES

The provisions covering the treatment of Reverse Charge Mechanism has been described extensively under GST. Let's look at the critical provisions of the GST law which have enabled reverse charge mechanism:-

Compulsory Reverse Charge even if the supplier is registered:

The Government may on the recommendation of the council specify some category of goods or services on which taxes will be payable on reverse charge basis and the recipient of such goods or services are liable to pay taxes on it.

Services availed from Goods Transport Agency, Lawyer, government, corporate sponsorship, director etc.

Reverse Charge if the supplier is unregistered –

If an unregistered supplier supplies goods or services or both to a registered person then such registered receiver of goods or services or both will be liable to pay GST on such supply.

Central Government had come up with an exemption to the small miscellaneous transactions from unregistered persons.

Reverse Charge Mechanism under GST and implications of exemption upto ₹ 5000 per day.

Notification No. 8/2017- Central Tax (Rate) dated 28.06.2017 issued by Central Government has exempted intra- State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the central tax leviable thereon under **Section 9(4) of CGST Act, 2017.**

The said exemption shall not be applicable where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds five thousand rupees in a day.

To sum up, the supply should be intra state supply (within the state) and can be for goods as well as services or both. Moreover the supply should be received by the registered person from an unregistered dealer only and upto a daily limit of ₹ 5000/-

Example:-

Mr. Kaushik purchased following items from unregistered dealer, all are dated 01.07.2017 as under:

1st bill – From Ram: Stationery = 1950/-

2nd bill – From Shyam: Lunch = 1100/-

3rd bill – From Madhu : Books = 3500/-

In this case, The bills of Mr. Kaushik will not get covered under this notification as aggregate value of all supplies exceeds 5000/- on a single date (01.07.2017)

Exemption would have been available if,:

1) Bill dates are different (So that it will come under 5000/- day limit, say bill date of Ram is 02.07.2017)

2) Any of the bills are 1100/- less than the mentioned value (Say Bill of Madhu is ₹ 3500/-

3) If the one of the bills in the same of other person (say, one of the bill is in the name of Mr. Raghav).

In case of reverse charge mechanism the credits can only be availed on payment of GST in cash.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

GRANT OF UNIQUE IDENTIFICATION NUMBER

OUR COMMENTS: The Office of the Commissioner, Commercial Tax, Government of Gujarat has notified the following vide **Notification No. GSL/GST-S.25/B.1 dated 27 July, 2017** that the Space Applications Centre (SAC), Jodhpur Tekra, Ambawadi, Ahmedabad shall be granted a Unique Identity Number. The procedure prescribed under rule 17 of the Gujarat Goods and Services Tax Rules, 2017 shall be followed for granting the Unique Identity Number.

STATE GOODS AND SERVICES TAX (FOURTH AMENDMENT) RULES, 2017

OUR COMMENTS: The Finance Department, Government of Gujarat vide **Notification No.-17/2017–State Tax-dated 27.07.2017**, has made the fourth amendment in Gujarat Goods And Service Tax Rule, 2017.

OUR COMMENTS: Government of Maharashtra vide **Notification No.-MGST-1017/C.R.120/Taxation-1 2017** has made the fourth amendment in Maharashtra Goods and Services Tax Rules, 2017.

OUR COMMENTS: Government of Puducherry vide **Notification No.- 21/CT/2017-18 dated 31 JULY 2017** has made the fourth amendment in Puducherry Goods and Services Tax Rules, 2017.

DOCUMENTS CARRIED BY PERSON INCHARGE IN TRANSIT IN CASE OF SHORTAGE OF E-WAYBILL

OUR COMMENTS: The Commercial Tax Department of Tripura, Government of Tripura vide **Notification NO.F.1-11(91)-TAX/GST/2017 (Part-IV) dated 29th July 2017** notifies that the documents viz. Tax Invoice, Manifest and Consignment Note shall be carried by the person in charge of a conveyance carrying any consignment of goods taxable under GST while the goods are in movement or in transit

storage till an E-way Bill system is developed and approved by the GST Council.

EXTENSION OF TIME LIMIT FOR FILING INTIMATION FOR COMPOSITION LEVY

OUR COMMENTS: The Commercial Tax Department ,Government of Bihar vide **Office Order No. 01/2017-GST dated 26th July 2017** has notified that the time limit for filing intimation for composition levy under sub-rule (1) of rule 3 of the SGST Rules, 2017 has been extended upto 16th August, 2017.

SUBMISSION OF BOND / LETTER OF UNDERTAKING BY THE EXPORTER

OUR COMMENTS: Excise And Taxation Department , Government of Himachal Pradesh vide **Trade Cir. No. 1 of 2017 dated 02 August, 2017** hereby notifies that the exporter have to submit bond / letter of undertaking in respect of Exports without payment of Integrated Tax under IGST Act.

Further it has been also notified that refund of integrated tax paid on export of goods or services can be availed by submission of bond or Letter of Undertaking in **FORM GST RFD-011**.

INCOME TAXES

NOTIFICATIONS/CIRCULARS

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION NOTIFIES FOR THE PURPOSE OF SECTION 10(46) OF IT ACT, 1961.

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION NO. 76/2017 dated 28th July 2017** hereby notifies for the purpose of section 10(46) of Income Tax Act, 1961 as under:

The income earned by the Himachal Pradesh Electricity Regulatory Commission, from the followings sources:

- amount received in the form of Government grants;
- amount received as license fee from licensees in electricity;
- amount received as Court fee or petition fee; and
- interest earned on Government grants and fee received.

Will be treated as the income of the Himachal Pradesh Electricity Regulatory Commission, but the above mentioned notification shall be effective subject to the conditions that Himachal Pradesh Electricity Regulatory Commission,-

- Shall not engage in any commercial activity;
- Activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- Shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

NON APPLICABILITY OF CONDITIONS IN CASE OF INVESTMENT FUND

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION NO. 77/2017 dated 3rd August 2017** hereby notifies that the 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) the following conditions will not be applicable:-

- The fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- Any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent.;
- The aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.;

CERTAIN ACTIVITIES NOT TO CONSTITUTE BUSINESS CONNECTION IN INDIA

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION NO. 78/2017 dated 3rd August, 2017** hereby notifies the name of the countries and specified territories in relation to certain activities mentioned in section 9A(3)(b) of Income Tax Act 1961 not constituted as business connection in India.

CUSTOMS

NOTIFICATIONS/CIRCULARS

CUSTOMS – IMPOSITION OF ANTI DUMPING DUTY

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION No. 36/2017-Customs (ADD), dated 28th July, 2017** hereby notifies that the period of imposition of antidumping duty on the on imports of 'Polytetraflouroethylene or PTFE' falling under the tariff item 3904 61 00 of the First Schedule to the Customs Tariff Act, originating in, or exported from China PR up to and inclusive of the 23rd August, 2017.

The anti-dumping duty imposed shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time.

AMEDMENT IN THE DUTY FREE TARIFF PREFERENCE FOR LEAST DEVELOPED COUNTRIES

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 68/2017-Customs dated 27th July, 2017** hereby makes further amendments in the notification No. 96/2008-Customs, dated the 13th August, 2008, published vide number G.S.R. 590 (E), dated the 13th August, 2008 in relation to duty free tariff preference for least developed countries.

AMEDMENT IN ALL INDUSTRY RATES (AIRS) DRAWBACK

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide

NOTIFICATION No. 73/2017-Customs dated 26th July, 2017 hereby makes the further amendments in the notification No. 131/2016-Customs, dated the 31st October 2016, published vide number G.S.R. 1018 (E), dated the 31st October, 2016 in relation to All Industry Rates (AIRs) Drawback.

AMEDMENT IN THE EFFECTIVE RATE OF CUSTOMS DUTY AND IGST FOR GOODS IMPORTED INTO INDIA

OUR COMMENTS: The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **NOTIFICATION No. 70/2017-CUSTOMS (N.T.) dated 31st July, 2017** hereby amend the notification of the No. 50/2017 - Customs (N.T.), dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3(i) vide number G.S.R. 785(E), dated the 30th June, 2017, in relation to effective rate of Customs duty and IGST for good imported into India.

AMEDMENT IN THE FIXATION OF TARIFF VALUES

The CBDT (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 74/2017-CUSTOMS (N.T.) dated 31st July, 2017** hereby makes amendment in the notification No. 36/2001 Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3(ii), vide number S. O. 748 (E), dated the 3rd August, 2001, in relation to fixation of tariff value of Crude Palm Oil, RBD Palm Oil, others-Palm oil, crude palmolein, RBD palmolein, others palmolein, crude soya bean oil, Brass Scrap, Poppy Seeds, Gold, Silver, Areca nuts.

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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