

TAX CONNECT

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INCOME TAX

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EDITORIAL



Friends,

There are Amendments to Foreign Trade Policy 2015-20 wherein Extension to IGST and compensation Cess exemption under EOU scheme is granted till 01.10.2018.

In GST, there is an important Ruling by the AAR Karnataka for EPC Contractors. It was held that the applicant got the single composite contract, but with three connected agreements for Supply of Materials, Erection & Civil Works respectively. All the three agreements were awarded to the applicant in response to a single tender notification & the general terms and conditions are commonly applicable to all the three agreements. The applicant is supplying the material and providing the erection of towers service and also civil works service. Therefore the contract entered by the applicant is of the nature of 'indivisible' and squarely falls under the works contract, which is a service.

However, each EPC Contract is a very different Contract and sometimes, the Principle Supply would be the Goods rather than the Service. Hence a decision may be taken on a case to case basis.

Further, it was held that the regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

Furthermore, certain clarifications have been provided by the CBEC. We summarize the same.

1. Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax.

Moulds and dies owned by the OEM which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved and hence are not liable to tax.

Further, because the cost of moulds/dies was not to be incurred by the component manufacturer, thus, does not merit inclusion in the value of supply.

The above is a welcome clarification and is also in line with the intention of the GST Law.

2. Whether OEMs are required to reverse input tax credit in the above case.

The moulds & dies are provided in the course or furtherance of his business. Hence no reversal of ITC is required.

The above "1" & "2" are subject to other terms & conditions of the contract.

3. How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST.

The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case. Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

4. In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit

The principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.

EDITORIAL

In case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s), after intimation to the Jurisdictional officer.

It is a welcome clarification.

5. In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery

Clarified in the negative.

However, it should have been clarified that in case of consignments not requiring waybill, the same would be delivered after receiving a declaration from the dealer.

6. Whether e-way bill is required in the following cases-

(i) Where goods transit through another State while moving from one area in a State to another area in the same State.

Yes.

(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State

Yes unless the same has been exempted under [rule 138\(14\)\(d\)](#) of the [CGST Rules](#).

Further, in modification of earlier Circular dated 01.03.2018, it is clarified that **Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs)** and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.

In Income Tax, there are various cases pending before in appeals relating to Charitable Organisations not having RC. In this case a very important judgement by the Bangalore ITAT citing the judgments of the Apex Court in the case of CIT Kanpur Vs. Society for Promotion of Education(2016 (2) TMI 672 - SUPREME COURT), wherein it held that The Revenue was required to dispose off the application for registration u/s 12A within a period of 6 months but it was not done. Thus in the light of these facts and the registration is deemed to have been granted from the date of inception of the Organisation. Thus the order of CIT was set aside and department directed to grant registration w.e.f. 01.04.1998.

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 10 TH JUNE, 2018 to 16 TH JUNE, 2018	Description
10 th June 2018	GSTR 1	Details of outward supplies of goods or services for the Month of May 2018
14 th June 2018	Income Tax	Due date issuing TDS Certificate for the month of April (Rent)
15 th June 2018	Income Tax	Quarterly Statement of TCS deposited for the quarterly ended 31.3.18
15 th June 2018	Income Tax	EPF/ESI payment for the month of May 2018
15 th June 2018	Income Tax	1 st Installment of Advance Tax for A.Y 2019-2020

GST: CGST

NOTIFICATIONS/CIRCULARS

GOODS AND SERVICES TAX SETTLEMENT OF FUNDS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Notification No. F. No. 31013/16/2017-ST-I-DoR - G.S.R. 524(E) - Central GST (CGST) dated 04th June, 2018** hereby notifies regarding Goods and Services Tax Settlement of Funds.

It is further stated that the Central Government hereby makes amendments in the Goods and Services Tax Settlement of Funds Rules, 2017:-

At any point of time in any particular financial year, the Central Government may, on the recommendations of the Council, provisionally settle any sum of integrated goods and services tax collected in that particular financial year which has not been settled so far which will be adjusted in the subsequent month(s)/year(s), based on the returns filed by the taxpayers”.

For further information kindly refer the above mentioned notification.

GST RATE ON PRIORITY SECTOR LENDING CERTIFICATES (PSLCS), RENEWABLE ENERGY CERTIFICATES (RECS) AND OTHER SIMILAR SCRIPS

OUR COMMENTS: The Department of Revenue, Ministry of Finance, Government of India, vide **Circular No. 46/20/2018-GST dated 06th June, 2018** hereby notifies regarding GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips.

It is further stated that MEIS and other scrips like SEIS and IEIS are goods classified under heading 4907 and attract 12% GST, which is the general GST rate for goods falling under heading 4907. Subsequently, the duty credit scrips classifiable under 4907 were exempted from GST, while stock, share or bond certificates and similar documents of title [other than Duty Credit Scrips], classifiable under heading 4907, attract 12% GST.

Moreover the Circular No. 34/8/2018- GST dated 01.03.2018 (S.No.3) was issued clarifying that PSLCs are taxable as goods at a standard rate of 18 % under the residual entry S. No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate). As a result, there is lack of clarity on the applicable rate of GST on various scrips/ certificates like RECs, PSLCs etc.

Thus the matter has been re-examined. GST rate of 18 % under the residual entry at S.No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate) applies only to those goods which are not covered under any other entries of Schedule I, II, IV, V, or VI of the notification. In other words, if any goods are covered under any of the entries of Schedule I, II, IV, V, or VI, the GST rate applicable on them will be decided accordingly, without resorting to the residual entry 453 of Schedule III.

It is further clarified that various certificates like RECs, PSLCs etc are classified under heading 4907 and will accordingly attract GST @ 12 %, though duty paying scrips classifiable under the same heading will attract Nil GST {under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017}.

Accordingly, in modification of S.No. 3 of Circular No. 34/8/2018- GST dated 01.03.2018, it is hereby clarified that Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs) and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.

For further information kindly refer the above mentioned notification.

GST: IGST

NOTIFICATION/CIRCULAR

EXPOSITION ON E-WAY BILL RULES

E-Way Bill is an electronic way bill for movement of goods which can be generated on the e-Way Bill Portal. Transport of goods of more than Rs. 50,000 (Single Invoice/bill/delivery challan) in value in a vehicle cannot be made by a registered person without an e-way bill.

Alternatively, E-way bill can also be generated or cancelled through SMS, Android App and by Site-to-Site Integration(through API).

When an e-way bill is generated a unique e-way bill number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

Who should Generate an E-Way Bill.

- **Registered Person** – E-way bill must be generated when there is a movement of goods of more than Rs. 50,000 in value to or from a Registered Person. A Registered person or the transporter may choose to generate and carry e-way bill even if the value of goods is less than Rs 50,000.
- **Unregistered Persons** – Unregistered persons are also required to generate e-Way Bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.
- **Transporter** – Transporters carrying goods by road, air, rail, etc. also need to generate e-Way Bill if the supplier has not generated an e-Way Bill.

Cases when E-Way bill is Not Required.

In the following cases it is not necessary to generate e-Way Bill :-

- The mode of transport is non-motor vehicle
- Goods transported from Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
- Goods transported under Customs supervision or under customs seal
- Goods transported under Customs Bond from ICD to Customs port or from one custom station to another.
- Transit cargo transported to or from Nepal or Bhutan
- Movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
- Empty Cargo containers are being transported
- Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 kms, accompanied by a Delivery challan.
- Goods being transported by rail where the Consignor of goods is the Central Government, State Governments or a local authority.
- Goods specified as exempt from E-Way bill requirements in the respective State/Union territory GST Rules.
- Transport of certain specified goods- Includes the list of exempt supply of goods, Annexure to Rule 138(14), goods treated as no supply as per Schedule III, Certain schedule to Central tax Rate notifications.

Note: Part B of e-Way Bill is not required to be filled where the distance between the consigner or consignee and the transporter is less than 50 Kms and transport is within the same state.

GST: SGST/UTGST

NOTIFICATIONS/CIRCULARS

EXAMINATION FOR GST PRACTITIONERS

OUR COMMENTS:The Commercial Taxes Department, Government of Haryana vide **Notification No.55 /GST-2dated 28th May, 2018** hereby notifies that the National Academy of Customs, Indirect Taxes and Narcotics, Department of Revenue, Ministry of Finance, Government of India, has the authority to conduct the examination of the GST Practitioners.

The Commercial Taxes Department, Government of Gujarat vide **Notification No.24/2018 - State Taxdated 28th May, 2018** hereby notifies that the National Academy of Customs, Indirect Taxes and Narcotics, Department of Revenue, Ministry of Finance, Government of India, has the authority to conduct the examination of the GST Practitioners.

For further information kindly refer the above mentioned notification.

EXTENTION OF THE DUE DATE FOR FILING OF FORM GSTR-6

OUR COMMENTS:The Commercial Taxes Department, Government of Nagaland vide **Notification No.10/2018 - Nagaland SGSTdated 31st May, 2018** hereby makes amendment in the **Notification No. 5/2018 dated 28th March, 2018**, regarding the extension of the time limit for furnishing the return by an Input Service Distributor in FORM GSTR6 under section 39(4) of the SGST Act of the Nagaland Goods and Services Tax Rules, 2017, for the months of July, 2017 to June, 2018 has been extended till the 31st July, 2018.

For further information kindly refer the above mentioned notification.

LEVY OF GST ON PSLC ON RCM BASIS

OUR COMMENTS:The Commercial Taxes Department, Government of Haryana vide **Notification No.56 /GST-2dated 28th May, 2018** hereby notifies regarding levy of GST on Priority sector lending certificate under Reverse Charge Mechanism.

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 .

The Commercial Taxes Department, Government of Gujarat vide **Notification No.11/2018-State Tax (Rate)dated 28th May, 2018** hereby notifies regarding levy of GST on Priority sector lending certificate under Reverse Charge Mechanism.

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 .

The Commercial Taxes Department, Government of Maharashtra vide **Notification No.11/2018 - Maharashtra SGSTdated 28th May, 2018** hereby notifies regarding levy of GST on Priority sector lending certificate under Reverse Charge Mechanism.

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

INDIAN INSTITUTE OF SCIENCE EDUCATION AND RESEARCH

OUR COMMENTS:The CBEC, Department of Revenue, Government of India vide **Notification No.25/2018 dated 30th May, 2018** hereby notifies regarding Indian Institute of Science Education and Research.

It is hereby notified that the organization M/s Indian Institute of Science Education and Research, Kolkata (PAN:- AAAAI2170E) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with Rules 5C and 5E of the Income-tax Rules, 1962, from Assessment year 2018-2019 and onwards under the category of "University, College or other Institution" engaged in research activities subject to the following conditions, namely:-

- The sums paid to the approved organization shall be utilized for scientific research.
- The approved organization shall carry out scientific research through its faculty members or its enrolled students.
- The approved organization shall maintain **separate books of accounts** in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under subsection (1) of section 139 of the said .

- The approved organization shall maintain a **separate statement of donations** received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:-

- fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- ceases to carry on its research activities or its research activities are not found to be genuine; or
- ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

For further information kindly refer the above mentioned notification.

CUSTOMS

NOTIFICATIONS/CIRCULARS

ANTI-DUMPING DUTY ON IMPORTS OF THE DIGITAL OFFSET PRINTING PLATES ORIGINATING IN OR EXPORTED FROM CHINA PR

OUR COMMENTS: The CBEC (Dept. of Revenue), Ministry of Finance, Government of India vide **Notification No. 30/2018-Customs (ADD) dated 30th May, 2018** hereby notifies regarding the imposition of Anti-Dumping Duty on imports of the Digital Offset Printing Plates originating in or exported from China PR .

It is further notified that the designated authority vide notification No.15/24/2016 DGAD , dated the 25th April, 2017 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 25th April, 2017, had initiated the sunset review in term of sub-section (5) of section 9 A of the Customs Tariff Act, 1975 (51 of 1975), (hereinafter referred to as the Customs Tariff Act), and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in the matter of continuation of anti-dumping duty on imports of 'Digital Offset Printing Plates' (hereinafter referred to as the subject goods), originating in, or exported from originating in or exported from China PR (hereinafter referred to as the subject country), imposed vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 51/2012- Customs (ADD), dated the 3rd December, 2012;

Thus, the Central Government had extended the period of imposition of anti-dumping duty on the subject goods, originating in or exported from the subject countries up to and inclusive of the 3rd June, 2018 vide notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 24/2017-Customs (ADD), dated the 2nd June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 549(E), dated the 25th April, 2017;

Moreover, in the matter of review of anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, the Designated Authority in its final findings, published vide notification No. F. No. 15/24/2016/DGAD, dated the 23rd April, 2018 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 23rd April, 2018, has come to the conclusion that:

- The financial and economic parameters of Domestic Industry (both volume and price) are stable and not evidencing deterioration requiring continuous of Anti-Dumping Duty.
- The 'MOU' signed by the Domestic Industry with the user association/user industry have led to mitigation of likely injury due to unfair trade.
- The prices agreed under MOU and actually realized by Domestic Industry during Period of Injury and post Period of Injury do not establish price underselling.
- The price trends of cooperating exporters and the import trend do not indicate a likelihood of recurrence of injury to Domestic Industry if Anti-Dumping Duty is withdrawn.
- Non realization of full prices in accordance with the provisions of the MoU by the petitioner is the primary reason for non-mitigation of injury that has been noted on account of product underselling for UV-CTP plates due to leakages emanating from mis-declaration of product description during custom clearance;

and has concluded that continuance of Anti-Dumping duty is not warranted on any of the three categories of product and has recommended discontinuance of existing Anti-Dumping Duty on imports of the 'Digital Offset Printing Plates' originating in or exported from China PR in accordance with clause (b) of Rule 14 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.

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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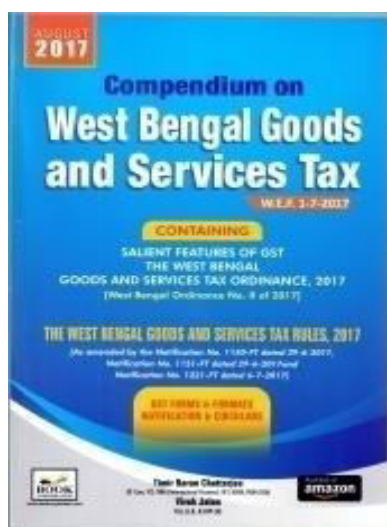
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AVAILABLE IN STANDS**A COMPENDIUM ON WEST BENGAL GOODS & SERVICES TAX**
(Including ALL Notifications till date)

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. 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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