



ASCO'S
SERVICE TAX COUNSELLOR
(AN INHOUSE NEWSLETTER ON INDIRECT TAXES)
(FOR PRIVATE CIRCULATION)

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The Editor's Desk



Dear Readers,

While the Indian economy has shown signs of decline and different agencies are predicting a lower GDP growth this fiscal as a aftermath of demonetization and GST, it is felt that it would be premature to jump to any adverse conclusion. According to the latest data, exports have jumped by 25.67% in September whereas imports rose by 18%. As many as 26 out of 30 sectors have reported positive growth. On a six months scale (April-September), exports grew by 11.5%. In this backdrop, we have GST in place of plethora of indirect taxes which is (was) aimed to be a good and simple tax. Atleast it is not simple.

GST in India is now 100 days old implying that we have also completed 100 days without Service Tax. People have started talking now as to whether Service Tax was easy to comply with and good for country or GST is. Atleast on implementation and as people who have to comply with GST law, none of us are satisfied. It looks like we have a half baked GST on plate leaving much room for the Government and GSTN to improve upon. So far as Service Tax is concerned, tax payers and professionals remember it for simplicity and ease of compliance. GST that way has become a bundle of amendments and people have to remember more of dates than provisions.

Still there is no provision for paying Service Tax on old dues which have been or are recovered after 30th June, 2017. In case of specified categories of assesses (individual, firm etc), Service Tax was to be deposited on collection / receipt basis for which there is no provision now. Taxpayers are finding it difficult to comply with for payment of tax. Also, there is no provision for any disclosure.

We celebrate diwali next week, the first diwali in GST regime, the festival of colours and light,. The markets are full of enthusiasm, lights, joy and happiness even if the undertone is week. It is hoped that business and prosperity will rise. We wish one and all a very happy, joyous, bright, sparking diwali festival ahead.

Date: 14.10.2017

DR. SANJIV AGARWAL



GST CORNER

GST IMPLEMENTATION IN INDIA - A MESSY AFFAIR

As we complete 100 days of GST implementation in India tomorrow, we have today before us a plethora of relaxations and concessions announced by the high powered GST Council in its 22nd meeting. While these steps are welcome, it is the creation of Governments own (mis)deeds. Though some damage control has been attempted, it could have been well avoided if suggestions were considered in right earnest and GST implemented from October only.

With too much of date extensions, amendments and corrigendum's, more in numbers than the original notifications itself and too frequent change in tax rates, the understanding as well as implementation has become confusing, complex and cumbersome. You need to remember more dates than the provisions itself. Moreover, frequent changes in software and applications are also a costly affair besides adding to fragile status on account of stability. Perhaps businesses need one person for tracking changes only.

It is something like old hindi film song, '*TUMHI NE DARD (PAIN) DIA HAI, TUMHI DAVA (MEDICINE) DENA*'.

The changes are bound to create more complexities :

- What happens to matching concept
- How will one get ITC
- What happens to them who have already complied and filed returns
- Those who had registered will have to be allowed to de-register. Will they get refund of taxes already paid
- What about refund of tax already paid under reverse charge
- Does one change its procurement policy now to be cost efficient
- What is effective date of these announcements (yet to be notified).

Who will ask the question and identify the person responsible for this mess – the GSTC, the bureaucrats or the assessee.

SERVICE TAX

RESTAURANTS THAT ARE STILL MAKING YOU PAY SERVICE CHARGE COULD NOW FACE BIG TAX BLOW

The department of consumer affairs has written to the Central Board of Direct Taxes for the inclusion of service charge levied by hotels and restaurants in the assessment of tax. In view of the seriousness of issue, Department of Consumer Affairs has written to CBDT to consider inclusion of service charge while assessing tax.

The move comes after the department issued advisories for making service charge voluntary, and restaurants continued to ignore the government's directive. We have been pursuing the service charge issue for quite some time now and the department had also issued guidelines, but still some people are not abiding and continue to levy service charge. Especially in five-star hotels, where the amount is very large," said an official aware of the developments.



The department has written to CBDT chairman on Tuesday, saying since hotels and restaurants are taking money from customers, it is part of their income, the official added. But they don't show it as part of their income, which is basically evasion of tax. This is more of a detrimental take, after continued efforts to stop the practice.

The department of consumer affairs had earlier this year issued an advisory stating that service charge levied at hotels and restaurants should not be mandatory and ought to be voluntary basis, depending on the experience of a consumer. The guidelines also mandated that the service charge column be left blank, to be filled by the consumer or to mention on the bill that it is optional. I am happy to share that a number of renowned hotels/restaurants have made service charge optional under the guidelines. Complaints against those insisting payment of service charge are being received through NCH(National Consumer Helpline), Paswan said in a series of tweets.

(SOURCE: THE ECONOMIC TIMES DATED 13.10.2017)

PMC DIRECTIVE DIMS CRACKER SALES THIS DIWALI

As compared to 1000 applications to set up cracker stalls received by the civic body every year, there have been only 248 applications so far this year. The number might go up closer to Diwali. After the Supreme Court imposed a ban of sale and firecrackers in Delhi and National Capital Region (NCR) to curb pollution, closer home, Pune too might witness a less polluted Diwali this year.

The Pune Municipal Corporation (PMC) has implemented the Bombay High Court's directives on sale of firecrackers by asking firecracker stall owners to set up shop away from residential areas, while hearing a PIL on violation of Explosives Substance Act. This decision will discourage people from putting up makeshift stalls at every nook and corner of the city.

Following these orders, residents are happy that this will limit pollution too. Padmaraj Pasalkar, who works in a private firm on Satara road, says, "This move will result in lesser stalls being put up and less pollution as well. Ultimately, the implementation of these orders will help in curbing pollution." However, according to environmentalists, the effect of shifting stalls away from residential areas needs to be studied. Rajiv Pandit, an environmentalist, informs, "The effect of this move on pollution needs to be observed, but I can definitely say that this has managed to change the mindset of people and it will help curb pollution in the long run. The awareness around air and noise pollution has increased and pollution has gone down over the last few years. Earlier, people used to burst crackers throughout the five days of Diwali, but now it is only during Laxmi Pujan that amount of pollution rises.

On the other hand, firecracker dealers claim that the move will affect sales. Rakesh Hadke, secretary of the Pune Phataka Dealers Welfare association, says, The PMC has asked us to set up shops at places that are mostly on the outskirts. Buyers, who could earlier easily get crackers near their homes, will now be deterred to travel all the way to these open spaces just to buy crackers. This is going to adversely affect our business.

The civic body fire department, which gives out permissions to set up cracker stalls, has also received fewer applications this year. Prashant Ranpise, head of PMC's fire department, says, There are 10-12 spaces that have been identified for sellers to set up shops. However, the directive has resulted in the number of applications decreasing.

(SOURCE: THE TIMES OF INDIA DATED 11.10.2017)



A S C O

STC Service Tax Counsellor



GOODS AND SERVICE TAX UPDATE

"OUR EXCLUSIVE NEWS LETTER ON GOODS AND SERVICE TAX, 'GST COUNSELLOR' WHICH WAS LAUNCHED IN JULY 2015 IS NOW RELEASED ON 1ST, 11TH AND 21ST OF EVERY MONTH"

For subscription, send a request at ascogst@gmail.com

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CASE STUDIES

VAT

In *Quippo Energy Ltd. v. Union of India* (2017) 59 GST 131; (2016) 72 Taxmann.com 219 (Gujarat), it was held that mere payment of VAT does not mean that Service Tax, if otherwise payable, can not be recovered. Hence, even if VAT was already paid, Service Tax demand can not be said to be without jurisdiction so as to be set aside in writ. Service Tax authorities can examine and action of authorities can not be said to be wholly without jurisdiction.



GOVERNMENT'S INK

F. No. 278A/33/2016-Legal dated 05.10.2017
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)
Legal Section

ORDER

The President of India is pleased to appoint a fresh panel of Sr./Jr. Standing Counsels of CBEC to handle litigation of Indirect Taxes before various High Courts and other fora, in terms of Instruction F. No. 278A/43/2007-Legal dated 05.12.2007. The terms of these Sr./Jr. Standing Counsels w.e.f. 03.10.2017 to 08.06.2019. The engagement of these Sr./Jr. Standing Counsels is subject to the terms and conditions as laid down in the said Instruction dated 05.12.2007 and Instruction F. No. 278A/50/2011-Legal dated 14.09.2012.

2. It is clarified that field formations may avail services for the Sr./Jr. Standing counsels indicated against DGDR/DGST for specified High Court and Vice-Versa.

3. This issues with concurrence of Ministry of Law & Justice vide their ID No. J-11019/5/2017-Judl. Dated 09.08.2017 and the Integrated Finance Unit (IFU) Dy. No. 903/IFU-II dated 18.09.2017.

(Y.S. Karoo)

Under Secretary to the Govt. of India



OBLIGATIONS UNDER SERVICE TAX

- All existing taxpayers registered under the Central Excise, Service Tax, State Sales Tax or Value Added Tax (VAT), Entry Tax, Luxury Tax and Entertainment Tax are required to provide their details at GST Common Portal (gst.gov.in) managed by GSTN for the purpose of migrating themselves to the GST regime.
- For carry forward of input credits from existing taxation regime to GST regime, it is mandatory to migrate to GST.
- The person, who has migrated and obtained provisional registration certificate, is required to submit Form GST REG – 26 within 3 months from the date of grant of provisional registration. It may be noted that without fill up of part B of enrolment application, a person will not be able to file return GSTR-3B. For month of September, 2017, 3B is to be filed by 20th October, 2017.

SIMPLE STEPS INVOLVED FOR GST ENROLLMENT

For migration

- Log on to www.gst.gov.in
- Creative unique username and new password using provisional ID and Password provided by VAT Department/CBEC.
- Fill the enrollment application.
- Submit the enrollment application along with necessary attachments.
- Sign the enrollment application electronically

For fresh registration

- Log on to www.gst.gov.in
- Go to new registration tab
- Select whether you are a tax payer or GST practitioner
- Enter the details including legal name of the business, PAN, e-mail, mobile etc.
- Type the OTP which is sent on your mobile / email
- TRN (Temporary Reference Number) will be generated
- Open the application using the TRN
- Fill the enrollment application.
- Submit the enrollment application along with necessary attachments.
- Sign the enrollment application electronically
- After successful submission of the application GSTIN will be issued with the user Id and password for login into the GST portal

Note: Fresh registration application can be submitted within 15 days of generating TRN and every time you have to login for filing the application using the same TRN and an OTP will be sent every time you login the application until finally submitted.



SERVICE TAX MATTERS

QUERY

What is the threshold for opting to pay tax under the composition scheme?

REPLY

The threshold for composition scheme is Rs. 1 crore of aggregate turnover in the preceding financial year. The benefit of composition scheme can be availed up to the aggregate turnover of Rs. 1 crore in a financial year.

'Aggregate turnover' means value of all outward supplies (taxable supplies + exempt supplies + exports + inter-state supplies) of a person having the same PAN and it excludes taxes levied under central tax (CGST), State tax (SGST), Union territory tax (UTGST), integrated tax (IGST) and compensation cess. Also, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Do you have any doubt or query on Service Tax? Why not seek an expert reply from STC. Email your query to asandco@gmail.com.



LITERATURE

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- VAT in Gulf Countries – Dr. Sanjiv Agarwal, www.taxguru.co.in, dated 06.10.2017
- Authorized representative under GST - Dr. Sanjiv Agarwal, www.taxmanagementindia.com, dated 06.10.2017.
- Things which worry automobile dealers – Dr. Sanjiv Agarwal, ELT, Vol. 354 : Part 2, dated 09.10.2017.
- Provisional attachment under Prevention of Money Laundering Act, 2002 – Dr. M. Govindarajan, ELT, Vol. 354 : Part 2, dated 09.10.2017.
- GST implementation in India- In damage control mode – Dr. Sanjiv Agarwal, Business Advisor, dated 10.10.2017.



A S C O

STC Service Tax Counsellor



PROGRAMME : NATIONAL CONFERENCE ON CAPACITY BUILDING MEASURES OF PRACTITIONERS WITH GST

DATE : 24.11.2017 and 25.11.2017

VENUE : MANGALORE

ORGANISED BY : ICAI, MANGALORE

SERVICE TAX COMPLIANCE TIP!

TIP!

All registered persons need to file FORM GST TRAN-1 and 2 for carry forward/claiming of credit in respect to services and/or goods under GST regime. Last date of filing of FORM GST TRAN-1 has been extended to 31st October, 2017 while GST TRAN-2 will be filed monthly from July 2017 to December 2017. GST TRAN-1 form is active at GST common portal from 21.08.2017.

QUOTE TO FOLLOW!



Attention is the rarest and purest form of generosity.

- Simone Weil

Humor



Two tax payer friends were chatting-

One : Service Tax was much better than GST

Second : No ! How can you say that ! GST has many advantages over Service Tax

First one : Whatever ! But see me.

- I am not required to file Service Tax returns.
- I am not paying Service Tax also which I have collected.
- I need not disclose what I have not paid
- There is no reconciliations asked for
- Even Government is not bothered about Service Tax.



KNOWLEDGE HUB



Diwali Wishes

- *May This Diwali be as bright as ever.*
- *May this Diwali bring joy, health and wealth to you.*
- *May the festival of lights brighten up you and your near and dear ones lives.*
- *May this Diwali bring in u the most brightest and choicest happiness and love you have ever wished for.*
- *May this Diwali bring you the utmost in peace and prosperity.*
- *May lights triumph over darkness.*
- *May peace transcend the earth.*
- *May the spirit of light illuminate the world.*
- *May the light that we celebrate at Diwali show us the way and lead us together on the path of peace and social harmony*

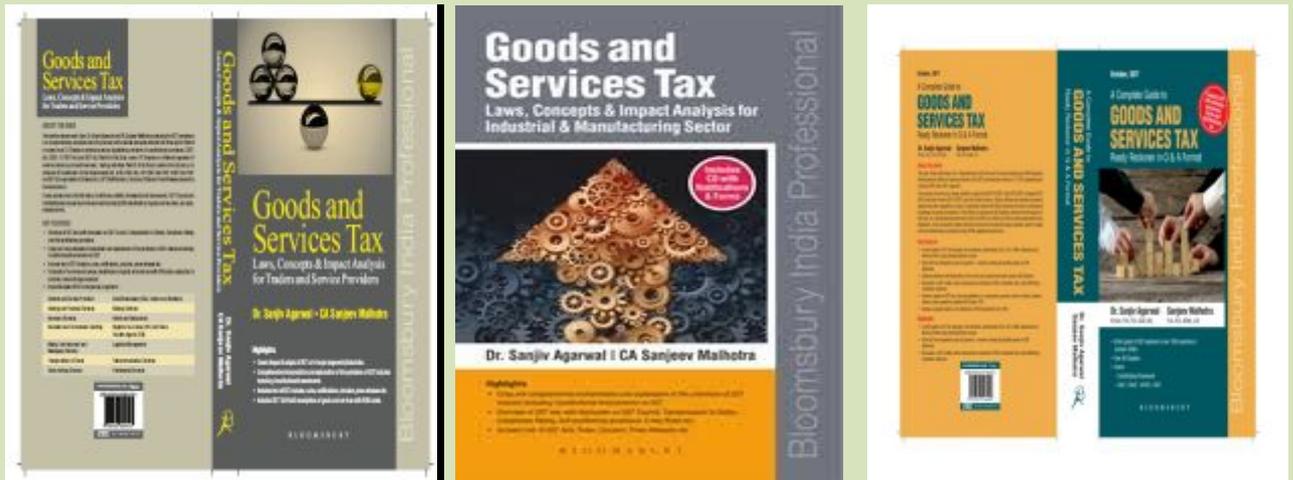
◆ WISH U A VERY HAPPY DIWALI ◆

ANNOUNCEMENTS

SNOW WHITE ANNOUNCES!
 UPDATED BOOK ON SERVICE TAX (Upto 31.03.2017)



NEW BOOKS ON GST FROM BLOOMSBURY



ANNOUNCEMENTS
 FOR EXCLUSIVE AND IN HOUSE
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