



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

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## The Editor's Desk



Dear Readers,

GST is now the order of the day and gradually but steadily, India has been moving ahead on its journey of GST. Though there are initial teething troubles, yet, Government is open for changes and its flexibility to accept feedback and suggestions is indeed commendable.

The Government should take couple of steps to ensure better tax administration in relation to erstwhile service tax which should *inter alia*, include early adjudication of pending Show Cause Notice (SCNs) which runs into lacs and issuance of further SCNs for period up to 30<sup>th</sup> June, 2017. Moreover, it should also address issues pertaining to call book cases on priority basis. CBEC should also consider making and using camp offices for early hearing of appeals at first appeal level for adjudication with a open mind so that cases may be finalized at this stage itself. It will reduce new appeals at Tribunal. The pace of disposal of appeals at Tribunal appears to have picked up. Bunching of appeals and deciding similar cases with common order would help reduce the backlog. Also, covered cases may be disposed off speedily.

The number of notifications being issued in GST regime has broken all records of Service Tax. Through such notifications can not be avoided but it only reflects the State of preparedness of tax administration and foregoing certain things in order to have a hurriedly legislated law and allowing little time for feedback of users.

Date: 16.11.2017

DR. SANJIV AGARWAL



# GST CORNER

## GST UPDATE for 23rd MEETING

Decisions at 23<sup>rd</sup> GST Council Meeting at Guwahati on 9-10 November 2017

- The Council has recommended major relief in GST rates on certain goods and services by reduction in GST rate from 28% to 18% on goods falling in 178 headings at 4-digit level. After these changes, only 50 items will attract GST rate of 28%.
- For 15 items, rates reduced to 12% and for 14 items, to 5% ; on 6 items rate reduced to NIL
- Following changes have been made for Restaurants/Hotels
  - All stand-alone Restaurants (whether AC or Non-AC) will attract 5% GST without ITC.
  - Food parcels (or takeaways) will also attract 5% GST without ITC.
  - Restaurants in hotel premises having room tariff of less than Rs 7500 per unit per day will attract GST of 5% without ITC.
  - Restaurants in hotel premises having room tariff of Rs 7500 and above per unit per day (even for a single room) will attract GST of 18% with full ITC.
  - Outdoor catering will continue to be at 18% with full ITC.
- Following changes have been recommended in relation to Composition Scheme
  - Uniform composite rate (1%) for manufacturers and traders
  - Supply of services upto Rs 5 lakhs may be exempted
  - Aggregate turnover for eligibility may increase to 1.5 crores subject to necessary amendments in CGST Act and SGST Acts.
- Person making export of services to Nepal and Bhutan (which have already been exempted) will also be eligible to claim Input Tax Credit in respect of goods or services used for making such exempt supply of services to Nepal and Bhutan.
- The rate of GST on job work services in relation to manufacture of those handicraft goods in respect of which the casual taxable person has been exempted from obtaining registration, shall be reduced to 5% with full ITC.
- All service providers, whether supplying intra-State, inter-State or through e-commerce operator, will be exempt from obtaining GST registration, provided their aggregate turnover does not exceed Rs. 20 lakhs (Rs. 10 lakhs in special category States except J & K).
- A facility for manual filing of application for advance ruling is being introduced for the time being.

### COMPLIANCES

#### *Returns-*

- FORM GSTR-3B is required to be filed by all taxpayers along with payment of tax by 20th of the succeeding month till March, 2018.
- FORM GSTR-1 is required to be filed in following manner:
  - Taxpayers having aggregate turnover upto Rs. 1.5 crore need to file GSTR-1 on quarterly basis as follows

Period	Dates
Jul- Sep	31st Dec 2017
Oct- Dec	15th Feb 2018
Jan- Mar	30th April 2018



- Taxpayers having aggregate turnover more than Rs. 1.5 crore need to file GSTR-1 on monthly basis as follows:

Period	Dates
Jul- Oct	31st Dec 2017
Nov	10th Jan 2018
Dec	10th Feb 2018
Jan	10th Mar 2018
Feb	10th Apr 2018
Mar	10th May 2018

#### Late Fee

The amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts) w.e.f October, 2017.

#### Other relevant returns and Forms

Dates for following forms are extended as under:

S. No.	FORM and Details	Original due date	Revised due date
1	GST ITC-04 for the quarter July-September, 2017	25.10.2017	31.12.2017
2	GSTR-4 for the quarter July-September, 2017	18.10.2017	24.12.2017
3	GSTR-5 for July, 2017	20.08.2017 or 7 days from the last date of registration whichever is earlier	11.12.2017
4	GSTR-5A for July, 2017	20.08.2017	15.12.2017
5	GSTR-6 for July, 2017	13.08.2017	31.12.2017
6	TRAN-1	30.09.2017	31.12.2017 (One-time option of revision also to be given till this date)

## SERVICE TAX

### THIRD APPEAL IN TAX CASES SHOULD BE FILED SELECTIVELY: CBEC

The finance ministry has said the tax department should file a third appeal in a case, after losing the first two, only selectively and after a critical examination, a move aimed at cutting down litigations. The Tax Policy Research Unit (TPRU) had suggested that the revenue department should not contest a case further, if the issue has been lost in two previous stages of appeals.

The Central Board of Excise and Customs (CBEC), in a circular said the suggestion was considered in detail. The Board observed that "this cannot" be made a rigid rule as the department may be "genuinely aggrieved" by the decision of the various judicial forum at lower levels.



However, such a principle may be applied on a case to case basis so as to ensure that critical issues such as classification, valuation/refunds, that have a snowball effect, are taken care of. Issuing instructions on the procedure regarding appeal at higher fora, the CBEC said that the proposal of TPRU can be "accepted subject to critical examination" by the Commissionerate on a case to case basis.

Wherever a Commissioner feels that the matter is fit for filing further appeal "he would submit complete justification for appealing against a case for the third subsequent time to the Zonal Chief Commissioner. The Zonal Chief Commissioner, the circular said would have to satisfy himself that the department has a strong case in the issue and put the same on record.

The TPRU, set up by the government in February 2016, comprise of officers from both the Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC) as well as economists, statisticians, operational researchers, legal experts.

*(SOURCE: ECONOMIC TIMES DATED 14.11.2017)*

#### HASMUKH ADHIA IS NEW FINANCE SECRETARY

Hasmukh Adhia, an old hand in the Finance Ministry, who drove two of Prime Minister Narendra Modi's biggest initiatives, Demonetisation and the rollout of the Goods and Services Tax (GST), has been designated as the new Finance Secretary.

With Adhia's appointment, the Budget team for 2018-19 is now complete. A 1981-batch officer of the Indian Administrative Service from the Gujarat cadre, Adhia served as Principal Secretary to Modi from 2003-06, when he was Chief Minister of Gujarat, and, according to Reuters, led a small team that oversaw the demonetisation of Rs. 500 and Rs. 1,000 notes, taking out 86 per cent of the currency in circulation.

The post became vacant after former Finance and Expenditure Secretary Ashok Lavasa retired on October 31. Traditionally, the senior-most Secretary in the Finance Ministry is designated as the Finance Secretary and is seen as the first among equals.

*(SOURCE: BUSINESS LINE DATED 07.11.2017)*

#### 50% OF INDIANS BRIBED BABUS FOR SERVICES LAST YEAR, SAYS SURVEY

Almost five of 10 persons admitted paying bribes in the last one year to avail primarily government services and eight of those did so at local level to police, municipal officials and matters relating to property registration and VAT, according to a survey by an online platform. LocalCircles, which conducted the India Corruption Survey, claimed the poll received one lakh responses to a set of eight questions with participants from 200 cities.

When asked how many times they had to grease palms, 25% said they did this several times and another 20% said they paid bribe once or twice in the last one year. Another 9% said they paid bribe for works relating to provident fund, income tax, service tax, railways and for tenders. Over one-third of respondents said they felt paying bribe was the only way to get work done while about 20% felt saying



no would have resulted in delay in service. The survey found that over half of the respondents felt state or local governments have not taken steps to reduce corruption in the last year.

About 42% respondents felt though some measures had been taken, these were ineffective. Respondents admitted that reporting corruption is a tough job and only 9% respondents said their state government has a functional hotline.

(SOURCE: INDIA TODAY DATED 01.11.2017)



## 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 1<sup>ST</sup>, 11<sup>TH</sup> AND 21<sup>ST</sup> OF EVERY MONTH"**

For subscription, send a request at [ascogst@gmail.com](mailto:ascogst@gmail.com)

For more updates on GST, log on to [www.gstcounsellor.com](http://www.gstcounsellor.com)



## CASE STUDIES

### Second Show Cause Notice

In *CCE, Meerut – II v. Prince Gutka Ltd. (2017) 52 STR 83 (SC)*, it was held that issue of second show cause notice on same cause of action is not permissible and that there was no error on Tribunal's order setting aside demand under second show cause notice. Cestat had held that there could not have been second show cause notice on the same cause of action on which adjudicating authority had dropped the earlier demand.



## GOVERNMENT'S INK

Press Information Bureau dated 17.10.2017

Government of India

Ministry of Finance

### CBEC to Redistribute Cases in Jurisdictions to Reduce Pendency of Cases With Commissioners (Appeal)

In order to clear the pendency of cases as on 30th June 2017 before the Commissioners of Central Excise and Service Tax (Appeals), the CBEC will redistribute the cases pending in the jurisdiction of a Principal Chief Commissioner / Chief Commissioner of Central Excise and Service Tax, among other Commissioner rank officers posted in that jurisdiction. A notification and circular have been issued in this regard.



## Notification No 26/2017-Central Excise (NT) dated 17.10.2017

G.S.R 1301 (E) - In pursuance of clause (b) of section 2 of the Central Excise Act, 1944 (1 of 1944) read with clause (55) of section 65B of the Finance Act, 1994 ( 32 of 1994), rule 3 of the Central Excise Rules, 2002 , rule 3of the Service Tax Rules, 1994, and clause (e) of sub-section (2) of section 174 of the Central Goods and Service Tax Act 2017 ( 12 of 2017), in respect of things done or omitted to be done before the coming into force of the Central Goods and Services Act, 2017 , the Central Board of Excise and Customs hereby-

- a) appoints the officers mentioned in column (2) of the Table below as the Central Excise officers ;
- b) vests such officers with all powers under the Central Excise Act, 1944 and the rules made there under and the Finance Act 1994 and the rules made there under ; and
- c) assigns -
  - (i) such Central Excise officers mentioned in column (2) of the Table below, and
  - (ii) Principal Commissioners of Central Excise and Service Tax or Commissioners of Central Excise and Service Tax ;
  - (iii) Commissioners of Central Excise and Service Tax ( Audit); and
  - (iv) Commissioners of Central Excise and Service Tax (Appeals),

with the jurisdiction mentioned in column ( 3) of the said Table, for the purpose mentioned in column( 4) of the said Table.

Table

S.No.	Rank and designation of the Central Excise officer	Jurisdiction	Purpose
(1)	(2)	(3)	(4)
1.	Any Principal Additional Director General or Additional Director General who is posted, vide an administrative order issued by the Central Board of Excise and Customs, in the territorial jurisdiction of a - (a) Principal Chief Commissioner of Central Excise and Service Tax; or (b)Chief Commissioner of Central Excise and Service Tax.	The jurisdiction of such Principal Chief Commissioner of Central Excise and Service Tax or Chief Commissioner of Central Excise and Service Tax, as specified in notification 13/2017-Central Excise ( NT), dated 9th June, 2017.	Passing orders in appeal with respect to appeals under section 35 of the Central Excise Act 1944, ( 1 of 1944) and section 85 of the Finance Act, 1994 ( 32 of 1994), which have been filed on or before 30th June, 2017 with the Commissioner of Central Excise and Service Tax (Appeals), in the territorial jurisdiction of such Principal Chief Commissioner of Central Excise and Service Tax or Chief Commissioner of Central Excise and Service Tax.

**(Dr. Sreeparvathy S.L.)**  
**Under Secretary to the Government of India**  
**F. No. 137/13/2017-Service Tax**



CESTAT Notification No. 1 /2017, dated 10.10.2017

Cestat – Hearing of pending appeal of Regional Benches at Principal Bench, New Delhi

The Hon'ble President is pleased to notify as follows:

In exercise of powers conferred by Section 126C of the Customs Act, 1962 read with Section 35D of the Central Excise & Salt Act, 1944 and Finance Act, 1994 and in supersession of all pre-existing public notices and orders on the subject, it is hereby notified that any appeal pending in any of the Regional Benches may be transferred to principal Bench at Delhi with the consent of both the parties and administrative approval of the Hon'ble President for any order including the final disposal.

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F No. 53(RTI)/ Miscn./CESTAT/ N.D.-2016 Vol.-II  
Customs Excise and Service Tax Appellate Tribunal West Block No 2,  
R.K. Puram, New Delhi.-110066

Date: 16.10.2017

Circular

It has been noticed that when a Member is transferred from one station to another there is no proper record of the orders dictated or reserved by him before his relieving from the station. Hence, it is directed that the Court Masters/SPS shall give an account of all appeals heard/dictated/order reserved by a Member but not released/pronounced before his/her relieving from the station to the concerned Assistant Registrar. The Assistant Registrar shall pursue the matter with the concerned Member through the SP5 in the old station until the orders are received/pronounced.

(A. Mohan Kumar)  
Registrar



## OBLIGATIONS UNDER SERVICE TAX

Assesseees should make payment of Service Tax collected after 1<sup>st</sup> July, 2017 in the GST regime where tax was being paid on collection basis earlier. However, presently there is no stipulation on filing of return of service tax for such payments.



## SERVICE TAX MATTERS

**QUERY:**

What are the powers of Government to levy taxes ?

**REPLY:**

According to the Constitution of India, Government has the power to levy taxes on individuals and organizations. However, the Constitution states that no one has the right to levy or charge taxes except with the authority of law. Whatever tax is being charged shall be backed by the law passed by the State legislatures or the Parliament. Article 246 (Seventh Schedule) of the Indian Constitution distributes legislative powers including taxation, between the Parliament and the State Legislature.

Schedule VII to the Constitution of India enumerates these subject matters of taxation as follows–

*List - I* enumerates the areas or subjects on which only the Parliament is competent to make laws, called as Union List

*List - II* enumerates the areas or subjects on which only the State Legislatures can make laws, called as State List and

*List - III* enumerates the areas or subjects on which both the Parliament and the State Legislatures can make laws concurrently, called as Concurrent List.

Separate heads of taxation are provided under List I and List II of Seventh Schedule of the Constitution. However, there is no head of taxation in the Concurrent List. Any tax levied by the Government which is not backed by law or is beyond the powers of the legislating authority may be struck down as unconstitutional or invalid.

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](mailto:asandco@gmail.com).



## LITERATURE

- Adjudicating authority is having no power to remand the case under prevention of Money Laundering Act, 2002 – Dr. M. Govindarajan, Vol. 355 : Part 1, dated 23.10.2017.
- Prohibition and confiscation – N. Manickam, Vol. 355 : Part 1, dated 06.11.2017.
- Scope of Business under GST law- Dr. Sanjiv Agarwal, [www.taxmanagementindia.com](http://www.taxmanagementindia.com), dated 07.11.2017.
- GST issues requiring attention – Dr. Sanjiv Agarwal, Business Advisor, dated 10.11.2017.
- Characterizing 'hire-purchase' as supply of 'Goods' versus 'Services': Reflections from the European Court of Justice – Tarun Jain, ELT, Vol. 355: Part 2, dated 13.11.2017.



PROGRAMME : NATCON' 17, "Profession Tomorrow"  
 DATE : 24<sup>th</sup> – 25<sup>th</sup> November 2017  
 TIME : 9.30 A.M onwards  
 VENUE : Birla Auditorium, Jaipur  
 ORGANISED BY : Central India Regional Council of ICAI  
 CONTACT : [circ@icai.in](mailto:circ@icai.in); [cpeadmin@icai.in](mailto:cpeadmin@icai.in)



SERVICE TAX COMPLIANCE TIP!



Continue to pay your old Service Tax billed / due as and when received now as that liability does not extinguish in GST regime.

QUOTE TO FOLLOW!



Attention is the Rarest and Purest form of Generosity.

-Simone Weil

Humor



- Raju - I am in depression from last 4 months
- Farhan - Have you seen a doctor?
- Raju - Doctors have advised me to go to some GST experts, but there is no expert in GST as all experts of service tax have become GST students.

Experts are learning, Government is learning!!



KNOWLEDGE HUB



WINTERS ARE ON- SOME TIPS TO TAKE CARE!!

Wash In Lukewarm Water

Hot showers and baths always feel good in the winter.

Moisturize Immediately Afterwards

Your skin not only needs more moisture, but moisture right after you wash.

Choose Moisturizer Carefully

Be sure to choose a smart formula that has natural, nourishing ingredients. Go for an oil-based rather than a water-based solution, as it is more likely to help your skin retain moisture in the winter.

Protect

Get used to wearing gloves and scarves to protect skin from cold winds, rain, and snow. Winter sun can be just as damaging as summer sun, so apply a safe option.

Humidify

Heating systems dry out the air, so consider installing a humidifier in your home.

Drink

We tend to drink less water in the winter because we turn to hot drinks like cocoa and tea, but do not forget that your skin needs hydration from the inside, out. A little warm water with lemon can be very refreshing and hydrating at the same time.

Avoid Toxins, Specifically Allergens And Irritants

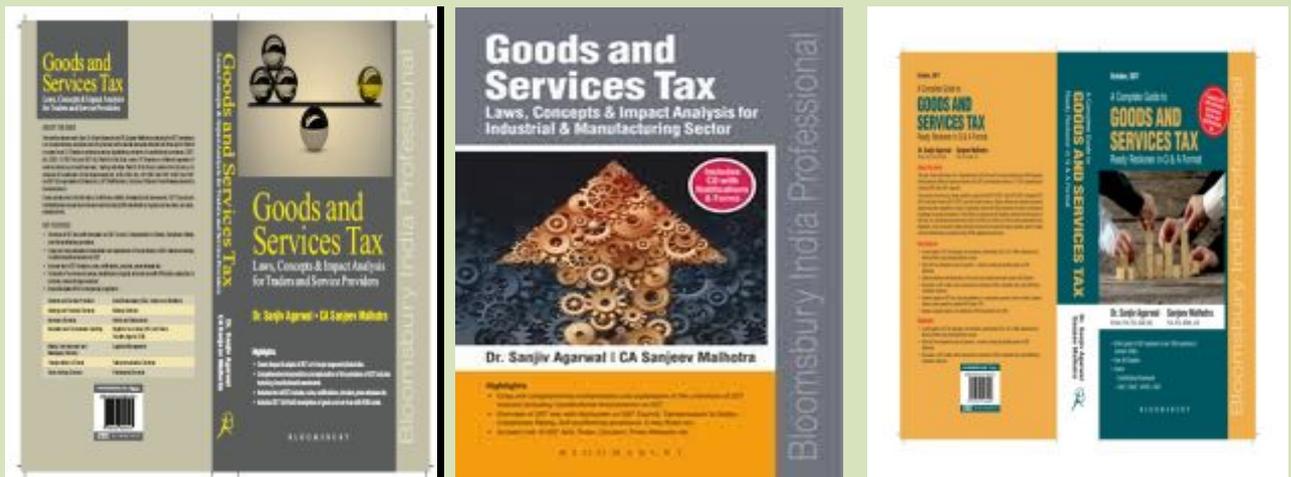
Winter skin is more fragile, so avoid irritating fabrics (like wool) and chemical-laden detergents, and use mild cleansers and moisturizers designed for sensitive skin.

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  
 SEMINAR / WORK SHOP  
 ON  
**GOODS AND SERVICE TAX (GST)**  
 CONDUCTED BY  
 DR. SANJIV AGARWAL (FCA, FCS)  
 PLEASE CONTACT AT:  
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