



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

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A S C O

STC Service Tax Counsellor

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## The Editor's Desk



Dear Readers,

If you visit any Service Tax office today, you will find lot of things happening right from parking place, canteen, corridors to officer's rooms. Every where it looks like people are busy with completing audits, assessments, appellate hearings etc. For the first time, we are witnessing officers resisting for giving adjournments or not allowing further dates, even when there are valid reasons. The reason is the pressure from the Ministry of Finance to clear the back log of adjudication and appeals as early as possible and by 31st March, 2018 at best. Even all Commissioners whether, in charge of audit, appeal, administration etc are hearing the appeals. Even assesseees are made to travel outside town to get the cases adjudicated as the cases have been transferred, of course at the cost of taxpayers only.

There is nothing left in Service Tax now except pending cases. However, Government should allow transfer / transition of cenvat credit now getting finalized or which was under dispute on 30th June, 2017 as the last date for transition of old cenvat credit has gone.

Date: 15.02.2018

DR. SANJIV AGARWAL



## GST CORNER

Status of few functionalities made available on GST Portal  
(As on 01.02.2018)

S.No.	Module	FORM	Details
1.	Registration	GST REG-01	Application for registration
2.	Registration	GST REG-25	Certificate of Provisional Registration
3.	Composition	GST CMP-02	Opt for composition scheme from the first day of the next month.
4.	Composition	GST CMP 03	For intimation of details of stock on date of opting for composition levy(only for person migrating)
5.	GST Practitioner Registration	Processing of Form GST PCT-01 and issuance of GST PCT 02	Processing of the registration application of GST Practitioner by the Tax official.

## SERVICE TAX

### CUT SERVICE TAX ON DIESEL: TN TRUCKERS

Truckers in the city have threatened to stop plying their vehicles for a day if the Tamil Nadu government does not reduce service tax on diesel and put off the implementation of e-way bill by six months. Nearly 50,000 trucks from other States and over 2 lakh trucks within the State ply daily.

The sudden increase in service tax in Tamil Nadu and tax reduction in Karnataka is hurting truckers of the State, said PV Subramani, Vice-President (south zone), All India Motor Transport Congress, and former president of Chennai Goods Transport Association. There is a price difference of nearly Rs. 3 per litre between Tamil Nadu and Karnataka. Subramani said transporters spend nearly 45 per cent of the freight cost on diesel.

The current service tax on diesel is 27 per cent in Tamil Nadu, compared to 19 per cent in Karnataka. Nearly 30 lakh litres of diesel are sold every day in Tamil Nadu. We request a modest 10 per cent reduction in the service tax. Also, with truckers filling up fuel in the neighbouring State, Tamil Nadu is losing nearly Rs. 30 crore daily, he told newsmen.

The association members plan to meet officials of the State government with their demands. "We will wait for 20 days. If our demands are not met, we will consult AIMTC and call for a one-day stoppage of vehicles.

#### *E-way bill problems*

On the recently implemented e-way bill, it is causing hardship to truckers, especially for small transporters, who have little knowledge regarding online systems. Given the cost involved in installing RFID devices in the vehicles, not many transporters may opt for it. It has been appealed to tax authorities in the State to give more time to adjust to the new system and not start imposing penalties from day one.

(SOURCE: BUSINESS LINE DATED 08.02.2018)



## HOW SERVICE TAX BECAME REVENUE LIFELINE FOR THE GOVERNMENT

When Manmohan Singh introduced service tax at a meagre 5 per cent while presenting the 1994-95 Budget, little did he know that it would become one of the biggest sources of revenue for the government in the years to come. Levied only on three items then — telephones, non-life insurance and stockbrokers — the tax brought in Rs.407 crore in the first year. And in FY17, the fiscal before it was merged with the Goods and Service Tax (GST), its collection stood at a whopping Rs.2,47,500 crore.

From the Government's perspective, service tax not only worked well, but turned out to be a major source of revenue, bringing in one-third of the indirect tax collection. The success of any tax is not limited to the revenue it generates, but also the investment climate it creates. By and large, the services sector has witnessed a phenomenal growth in the last two decades, pointing to the success of this tax.

### Well taxed

The introduction of service tax find its roots in recommendations of the Dr Raja Chelliah Committee on Tax Reforms, which called for the imposition of the tax to broaden the indirect tax base. And it served that purpose well.

After economic liberalisation in 1991, a host of MNCs were setting up shop in India and taxing their services was a logical move at a time when services were bringing in 40 per cent of the country's GDP. After 1994, the Government went on to add more services to the taxable list, including hospitality, transport, broadcasting, financial and real estate services. By the year 2016, the services sector was the major economy driver, clocking a growth of 66 per cent.

With the growth in export of services, the sector also generated foreign income. The last few years have also witnessed a phenomenal growth of digital and e-commerce related services. This move of the Government turned out to be extremely rewarding as the focus of the Indian economy became more service oriented in the decades to come.

While 116 services were being taxed up to 2011, all services were taxed post 2012 with the introduction of negative list (of services which were not taxable). The Budget 2016 imposed Krishi Kalyan Cess on all taxable services at 0.5 per cent, which put the effective service tax rate at 15 per cent.

### One with GST

However, last year, with the introduction of GST, service tax lost its identity and merged with the mega tax. It was a good idea to bring services into the ambit of GST. That is very much in line with international practice of considering goods and services as one for the purpose of taxation.

The biggest advantage of merging the two was the availability of credit, which was restricted in the VAT and service tax regime. Moreover, in many sectors, the problem of identification of a particular transaction whether amounting to 'goods' or 'services' led to a plethora of litigation, which seemed to have resolved to some extent.

Today's taxpayers have expanded their horizons and the same asseesee supplies both goods and services. So by putting him onto multiple administration, even in GST, would not have served any purpose. Services did not warrant exclusion from GST and has been rightly merged with other taxes.

(SOURCE: BUSINESS LINE DATED 01.02.2018)

**CBEC TO BE RENAMED CBIC BY APRIL**

Rechristening of the apex indirect tax policy making body CBEC to Central Board of Indirect Taxes and Customs (CBIC) is likely to happen by April after the budgetary exercise gets Parliament nod. With excise duty, service tax, along aside nearly a dozen other central and state levies being subsumed in the Goods and Services Tax (GST) rolled out from July 1, the ambit of the Central Board of Excise and Customs (CBEC) has widened.

In his budget speech for 2018-19, Finance Minister Arun Jaitley said with the roll out of GST the name of CBEC would be changed to CBIC. Through Finance Bill 2018, we are amending the Central Boards of Revenue (CBR) Act, 1963, as well as the Central Goods and Services Tax Act, 2017, replacing CBEC with CBIC.

The official said since the CBR Act provides for constitution of separate boards of revenue for direct taxes and excise and customs, the name of CBEC has to be replaced with CBIC in the Act. Also, the Central GST Act mention CBEC, but the Integrated GST (IGST) and the Union Territory GST (UTGST) talks of only 'Board' without elaborating. Once the amendments are cleared by Parliament, the government will notify the changed name of CBIC.

The Finance Bill is likely to get Parliament approval in the second leg of Budget which is slated to begin on March 5 and end on April 6. The official said that while the name of some departments within CBEC like NACIN, DGGSTI, is in line with the new work profile of the Board, the name change of CBEC was delayed as a couple of amendments had to be carried out through the Finance Bill.

The National Academy of Customs, Indirect Taxes & Narcotics (NACIN) is the premier training institute and is under the administrative control of CBEC. Besides, the Directorate General of Central Excise Intelligence (DGCEI) has already been renamed as the Directorate General of Goods and Services Tax Intelligence (DGGSTI). Besides, the Directorate General of Analytics and Risk Management (DGARM) was set up last year to provide analysis of data relating to customs, excise and GST.

The re-organisation of field formations of the CBEC for implementation of GST, and its renaming to CBIC was approved by Jaitley in March last year. GST was introduced from July 1, 2017. With legislative approval not in place for change of name, CBEC has been notifying all rules and provisions of the new indirect tax regime. As per the reorganisation plan, the proposed CBIC will supervise the work of all its field formations and directorates and assist the government in policymaking in relation to GST, while continuing central excise levy and Customs functions. The CBIC will have 21 zones and GST Taxpayer Services Commissionerates.

(SOURCE: ECONOMIC TIMES DATED 04.02.2018)

**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)

We also release a daily **GST Capsule** on any topical subject which also available on our facebook account [gstcounsellor](https://www.facebook.com/gstcounsellor) as well as on our website.



## CASE STUDIES

### Recent Pronouncements on GST

- In *Ramdev Trading Company & Another v. State of U.P. & 3 others (2017) 12 TMI 341 (Allahabad)*, where the goods of assessee were detained by detaining authority and also a penalty imposed on the ground that goods were mis described, it was observed that at the stage of seizure the detaining authority had not applied his mind, nor formed any opinion as to intention to evade tax and the only allegation made in the seizure order was to the effect that the Transit Declaration Form (TDF) was absent and that the goods have been mis-described. Also, there was no allegation whatsoever as to the intention of the petitioner to evade tax. In such circumstances, it was held that in absence of any allegation or evasion of tax being made against the petitioner at the stage of detention and seizure and even at the stage of issuance of notice of penalty, it was difficult to sustain the penalty.
- In *M/s M.K. Enterprises through its Prop. Mukesh Kumar v. State of U.P. & 3 Others (2017) 12 TMI 342 (Allahabad)*, where the assessee was not given any opportunity to show cause or give reply to the allegation on which goods had been seized on account of absence of Transit Declaration Form (TDF), it was held that as the petitioner had no notice or opportunity to explain his conduct with respect to the discrepancy in the Tax Invoice alleged in the seizure order, the said order passed u/s 129(1) and 129(3) of the UPGST Act shall be set aside.



## GOVERNMENT'S INK

Notification No. 16/2018-Central Excise dated 02.02.2018

G.S.R. 144(E).-In exercise of the power conferred by sub-section (2A) of section 5A of the Central Excise Act, 1944 ( 1 of 1944), the Central Government considers it necessary for the purpose of clarifying the applicability of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2017-Central Excise, dated the 30th June, 2017, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 793(E), dated the 30th June, 2017, and therefore, hereby makes the following further amendments in the said notification, namely:- In the said notification, after the table, the following Explanation shall be inserted, namely: -

"Explanation. - The amendments made, in SI Nos. 2, 3, 4, 5 and 6, vide notification No. 9/2018-Central Excise, dated the 2nd February, 2018, published in Gazette of India, Extraordinary, Part II, and Section 3, Sub-section (i), vide number G.S.R. 135 (E), dated the 2nd February, 2018, shall not apply to the goods manufactured on or before the 1st February, 2018 and cleared on or after the 2nd February, 2018."

[F. No. 334/04/2018-TRU]  
GUNJAN KUMAR VERMA, Under Secy.

Note : The principal notification No. 11/2017-Central Excise, dated the 30th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide, number G.S.R. 793(E), dated the 30th June, 2017 and last amended by notification No.09/2018-Central Excise dated 02nd February, 2018 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide, number G.S.R. 135(E), dated the 02nd February, 2018.



## 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. Non-payment would attract interest as well as penal provisions.



## SERVICE TAX MATTERS

### QUERY:

*Whether upfront lease premium is leviable to service tax under Finance Act, 1994 ?*

### REPLY:

Upfront lease premium is charged on one time basis but on the other hand other charges are charged on regular basis (annual or otherwise). The premium is the price paid for obtaining the lease of an immovable property. While rent, on the other hand, is the payment made for use and occupation of the immovable property leased. Since the levy of service tax is on renting of immovable property and not on transfer of interest in property from lessor to lessee, service tax would be chargeable only on the rent whether it is charged periodically or at a time in advance. This position is also backed and supported by judicial pronouncements.

There appears to be a difference between the nature of upfront lease premium and other annual charges. A lease is a transaction, which has to be supported by consideration. The amounts received may be either premium or rent or both. The premium is the price paid for obtaining the lease of an immovable property. The consideration which is paid periodically is called rent. Rent is the payment made for use and occupation of the immovable property leased. Since taxing event is renting of immovable property, service tax would be leviable only on the element of rent i.e. the payments made for continuous enjoyment under lease which are in the nature of the rent irrespective of whether this rent is collected periodically or in advance in lumpsum.

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

- Inter-corporate loans reversal under GST law – Ms. Lakshmi Ratna, GSTL, Vol. 8 : Part 2, dated 11.01.2018.
- Provisions of deemed exports - a study – Ramesh Chandra Jena, GSTL, Vol. 8 : Part 2, dated 11.01.2018.
- Indirect taxes in Union Budget - 2018– Dr. Sanjiv Agarwal, Business Advisor, dated 10.02.2018.
- GST nor so tax friendly – court verdict - Dr. Sanjiv Agarwal, [www.taxmanagementindia.com](http://www.taxmanagementindia.com), dated 15.02.2018.



PROGRAMME : Workshop on GST Law  
DATE : 21.02.2018  
TIME : 2:00 P.M. To 6:00 P.M.  
TOPICS : Issues related job work & E-commerce Transactions  
Late fees, interest & Penal provisions  
VENUE : GSTPAM, Mazgaon Library, 1st Floor, 104, Vikrikar Bhavan, Mazgaon, Mumbai  
ORGANISED BY : The Institute of Chartered Accountants of India (WIRC)

### 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!



True people & well-wishers in our life are just like stars.  
They constantly shine but often we don't see them until the dark hours come in our life.

### Humor



### BANK FRAUDS AND GST RATE

FM : We may increase the GST rate on Jewellery  
Trade body : But why  
FM : We have to make good the fraud cost of Rs. 11500 crore made by your brother, any, designer Neerav Modi !!



## KNOWLEDGE HUB



28 Days a Months?  
History of February!!

The shortest month of the year seems to have gone by in a flash. Why does February have only 28 days?

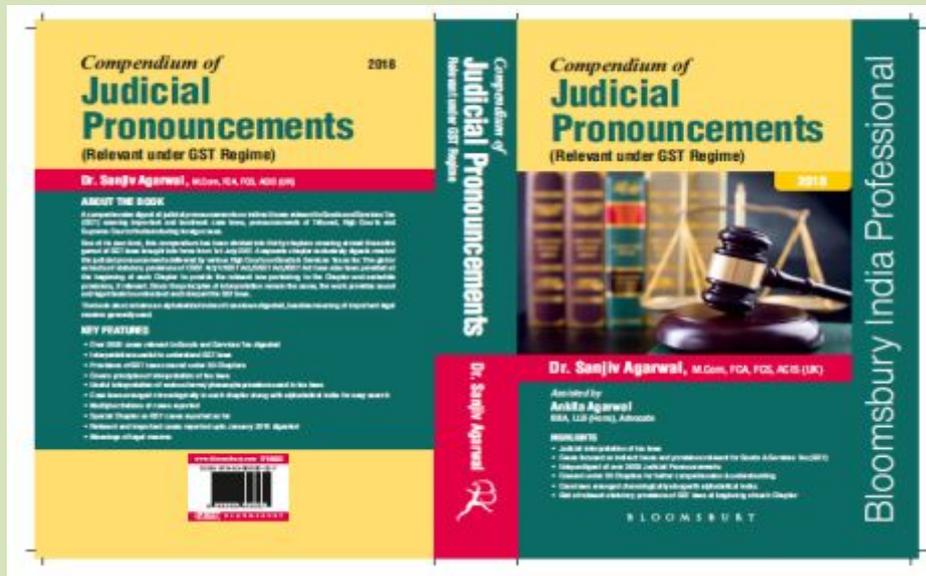
- It's the Romans' fault. Our modern calendar is loosely based on their old, confusing one. Though records on the Roman calendar are sparse and sketchy, legend has it that Romulus, the first king of Rome, devised a 10-month lunar calendar that began at the spring equinox in March and ended with December.
- It is unclear whether there were any official months between December and March, but it's likely they were left off because the wintertime wasn't important for the harvest.
- The second king of Rome, Numa Pompilius, decided to make the calendar more accurate by syncing it up with the actual lunar year—which is about 354 days long. Numa tacked on two months—January and February—after December to account for the new days.
- The new months each had 28 days. But that didn't sit well with Numa because even numbers were considered bad luck at the time. So, he added a day on to January, giving the year an odd-numbered 355 days.
- No one knows why February was left with 28 and remained an unlucky month. It may be related to the fact that Romans honored the dead and performed rites of purification in February. (The word februaire means "to purify" in the dialect of the ancient Sabine tribe.)
- The 355-day calendar couldn't stay in sync with the seasons because it didn't account for the amount of time it took for the Earth to orbit the sun. So, an extra "intercalary" month of 27 days was inserted after February 23 every couple of years or so to even things out.
- In around 45 B.C., Julius Caesar commissioned an expert to put aside the lunar origins of the Roman calendar and make it sun-based, like the Egyptian one.
- Caesar added 10 days to the calendar year and an extra day in February every four years. (The leap-year day was inserted after the 23rd, the same time as the old intercalary month.) Now, the year averaged out to 365.25 days, very close to the actual average length of a year: 365.2425 days (and even that varies).
- Some have speculated that Caesar added a day to February when he reformed the calendar—making it 29 days long. The story goes that when the Senate renamed the month of Sextilis to honor the emperor Augustus, that day was subtracted from February and added to August in order to make it equal in number to July—the month named for Caesar. But this theory is now believed to be bunk; it's likely that Julius never even added a day to February.

ANNOUNCEMENTS

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



NEW TITLE ON GST  
 by  
 Dr. Sanjiv Agarwal



<b>Title</b>	<b>Compendium of Judicial Pronouncements (Relevant under GST Regime)</b>
<b>Author</b>	<b>Dr. Sanjiv Agarwal</b>
<b>Publication</b>	<b>February, 2018</b>
<b>Publishers</b>	<b>Bloomsbury Publishing India Pvt. Ltd.</b>
<b>Price</b>	<b>Rs. 1995/-</b>
<b>Pages</b>	<b>1150 +</b>



### Highlights

- Judicial interpretation of tax laws
- Cases focused on indirect taxes and provisions relevant for Goods & Services Tax (GST)
- Unique digest of over 3600 Judicial Pronouncements relevant for GST
- Covered under 30 Chapters for better comprehension & understanding
- Case laws arranged chronologically alongwith alphabetical index
- Gist of relevant statutory provisions of GST laws at beginning of each Chapter

### About the Book

A comprehensive digest of judicial pronouncements on indirect taxes relevant to Goods and Services Tax (GST) covering important and landmark case laws, pronouncements of Tribunal, High Courts and Supreme Court of India including foreign cases.

One its own kind, this digest has been divided into thirty chapters covering almost entire gamut of GST laws brought into force from 1<sup>st</sup> July, 2017. A separate chapter exclusively digests most of the judicial pronouncements delivered by various High Courts on Goods & Service Tax so far. The gist or extracts of statutory provisions of CGST Act / UTGST Act/ SGST / IGST Act have also been provided at the beginning of each Chapter to provide the relevant law pertaining to the Chapter and erstwhile provisions, if relevant. Since the principles of interpretation remain the same, the work provides sound and legal basis to understand and interpret the GST laws.

The book also contains alphabetical index of case laws digested, besides meaning of important legal maxims generally used.



### Key Features

- Interpretations useful to understand GST laws
- Covers principles of interpretation of tax laws
- Useful interpretation of various terms / phrases / expressions used in tax laws
- Multiple citations of cases reported
- *Special chapter on GST cases reported so far*
- Relevant and important cases reported upto January, 2018 digested
- Meanings of legal maxims

It is hoped that the Book shall be found useful by professionals, tax payers, industry bodies and all other stakeholders in GST.

For any GST related interpretation / queries, please send a mail to [asandco@gmail.com](mailto:asandco@gmail.com)

**ANNOUNCEMENTS**  
FOR EXCLUSIVE AND IN HOUSE  
SEMINAR / WORK SHOP  
ON  
**GOODS AND SERVICE TAX (GST)**  
CONDUCTED BY  
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