















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

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The Editor's Desk



Dear Readers,

Service Tax, as we all know is a history now. However, we all still live with Service Tax by way of pending adjudications, investigation and appellate matters at various forums, which are being disposed of at jet speed.

Finance Bill, 2018 did made few amendments in Service Tax by providing retrospective exemptions in respect of certain services. In an endeavour to reduce litigation, CBEC has recently issued Circular No. 1063/2/2018-CX dated 16.02.2018 wherein it has been specified that various high court orders have been accepted by the Board and in view of that, all pending identical cases may be decided expeditiously by the field formations.

It yet another development, Supreme Court finally decided on revenue appeal in Bhayana Builders case in favour of taxpayers in relation to taxability of free supply of goods / services by the recipient. Though it may not be of any help in GST regime but it is important as it settles the issue which will help disposal of all pending cases of adjudication and at appeal stage.

STC wishes all its readers a very happy, joyous and colourful holi festival.



Date: 28.02.2018

DR. SANJIV AGARWAL



GST CORNER

Filing of GSTR 3B becomes easier: A relief to taxpayers

GSTN has issued an advisory for modifying few aspects of GSTR 3B filing. Following is a gist of changes, which have been done to the GSTR 3B online filing process by GSTN:

- 1) User will have to fill either CGST or SGST/UGST amount, other taxes columns will get auto filled.
- 2) User can now save the Form on confirming details filled in the Table. You can fill balance details later.
- 3) User can Preview Form or download it for cross verifying saved details in any table(s) anytime.
- 4) For freezing the details and to know the liability, submit option is not required now.
- 5) Changes in any table can be made before making payment towards liabilities.
- 6) Once you proceed to payment, you can also see details of existing balances in cash and credit ledgers (Table 6.1 – Payments Table).
- 7) System suggested Tax Credit (ITC) is already filled for discharging liability. Be aware, it is only suggestion. You can edit the same before finalizing the Return.
- 8) Once you confirm ITC and cash utilization for payment of tax liability in Payments Table, system does automatic calculation for shortfall in cash ledger.
- 9) Once you are Ok with shortfall, System will generate pre-filled challan for shortfall and navigate to payments option.
- 10) Once you make online payment, system will navigate back to Payments Table.
- 11) You can Track Return status as well as download the Return from through Track Return Status functionality available at your dashboard.



NEWS UPDATES SERVICE TAX

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 side 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," a government official told PTI.

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.

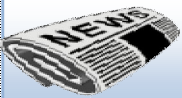


The official said that while the name of some departments within CBEC like NACIN, DGGSTI, is in line with the new work profile of the Board, the name change of CBEC was delayed as a couple of amendments had to be carried out through the Finance Bill.

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 1ST, 11TH AND 21ST OF EVERY MONTH"

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CASE STUDIES

Renting of Premises and Licenses

In *Konkan Agro Marine Industries Pvt. Ltd. v. CCE, Customs & Service Tax, Aurangabad (2018) 9 GSTL 296 (Cestat, Mumbai)*, where both were leased, i.e. factory premises as well as license of potable liquor and rectified spirits, revenue department wanted that factory leasing and license leasing should not be delinked and sought to tax both as renting of immovable property service, the tribunal (Cestat, Mumbai) ruled in favour of the assessee and against the department.

The appellants were engaged in the business of manufacturing and bottling of alcoholic beverages. The appellants held Potable Liquor License (PLL) and Rectified Sprit License (RSII). The appellants entered into an agreement under which the appellants leased their licenses. The appellants thereafter entered into an agreement for bottling at their plant and recovered bottling charges for the same.



Revenue's argument was that there cannot be a license without the premises in the provisions of Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966. The licenses lease along with the factory as license by itself is not value. Potable Liquor License (PLL) is a license to manufacture and sell the noted varieties of liquor and the license gives permission only manufacture at the specified premises and nowhere else. The license is worthless without the factory which has been licensed.

It was held that 'manufactory' means that portion of a distillery premises which is set apart for the manufacture of potable liquor and includes a liquor room and every place therein from which such liquor is issued. Severe restrictions had been put on the factory, which had been licensed and no charges in the license premises could be made by the licensor without the permission.

It was further held that though license is granted in respect of manufactory but the same is granted to the person. The license given to a person in respect of a manufactory can be transferred to another manufactory on another site in the name of same person. License can be granted even before the manufactory comes into existence. From the Rules it was apparent that license by itself is not a immovable property and therefore leasing of license could not be treated as renting of immovable property service.

It thus concluded that license by itself is not immovable property and therefore, leasing of license cannot be treated as renting of immovable property service.



GOVERNMENT'S INK

**Circular No. 1063/2/2018-CX dated 16.02.2018
F. No. 116/2/2018-CX 3**

Sub: Orders of Supreme Court, High Courts and CESTAT accepted by the Department and on which no review petitions, SLPs have been filed– reg.

Field formations send SLP & CA proposals to the Board. Many of them after examination are not approved and such decisions of High Courts & Tribunals thus attain finality. It has been decided to disseminate such information to the field formations. Attention is invited to sixty three orders of different High Courts summarized in this Circular which have been accepted by the Department. In fourteen of these orders, Hon'ble High Courts have decided various questions of law. In the rest forty nine cases the Hon'ble High Courts have delivered judgments on the basis of some settled case law or have decided points of facts or have dismissed the appeal on monetary grounds. The said orders have been complied in this Circular so that cases pending in the field can be expeditiously decided, if the questions of law or facts involved are identical.

2. The Circular has two parts, namely Part I and Part II, where Part I comprises of the orders of various High Courts in which points of law have been decided and Part II comprises orders which have been decided on facts or have been dismissed on monetary limits. All the orders have been accepted by the Department and against them no SLP etc has been preferred in the Hon'ble Supreme Court.

3. This exercise has been undertaken as an endeavour to reduce litigations so that cases on similar questions of law or identical case on facts pending in your jurisdictions can be decided.

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4. The aforementioned orders of the various High Courts have been accepted by the Board. It is requested that cases pending in your jurisdictions pertaining to the questions of law or identical case on facts decided in the said orders may kindly be decided expeditiously.

5. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Shankar Prasad Sarma
Under Secretary to the Government of India

Notification No. 18/2018-Central Excise dated 23.02.2018

G.S.R. 184(E).-In exercise of the power conferred by sub-section (2A) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with section 133 of the Finance Act, 1999 (27 of 1999), the Central Government hereby 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. 2/2018-Central Excise, dated the 2nd February, 2018, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 128 (E), dated the 2nd February, 2018, that the said notification 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]

RUCHI BIST, Under Secy.

Notification No. 17/2018-Central Excise dated 23.02.2018

G.S.R. 183(E).-In exercise of the power conferred by sub-section (2A) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with section 111 of the Finance (No.2) Act, 1998 (21 of 1998), the Central Government hereby 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. 1/2018-Central Excise, dated the 2nd February, 2018, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 127 (E), dated the 2nd February, 2018, that the said notification 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]

RUCHI BIST, Under Secy



OBLIGATIONS UNDER SERVICE TAX

Assessees should make payment of Service Tax collected after 1st 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:

What is the applicability of service tax on Documentation Services provided by Automobiles Dealers?

REPLY:

There is no Service Tax on Documentation Services provided by Automobile Dealers . The Delhi bench of the *CESTAT*, in *M/s Marudhara Motors v. CCE*, held that the documentation services provided by automobile dealers would not attract service tax as the same was not providing on behalf of the financial institutions or banks.

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

- Refund Mechanism under GST – A handholding – R. Srivatsan, GSTL, Vol. 9 : Part 3, dated 15.02.2018.
- Transfer of construction materials plants, equipment, tools, spares, handling equipment from one site to another site any GST is payable – Pradeep K. Mittal, GSTL, Vol. 9 : Part 3, dated 15.02.2018.
- Textiles & textile articles – applicability of Cenvat Rule 6 when dutiable as well as exempted goods are manufactured – Haroon Rashid Khan, ELT, Vol. 359 : Part 4, dated 15.02.2018.
- GST offers professional opportunities – Dr. Sanjiv Agarwal, ELT, Vol. 359 : Part 4, dated 15.02.2018.
- Compounding of offences under GST - Dr. Sanjiv Agarwal, www.taxmanagementindia.com, dated 16.02.2018.
- Taxability of transportation of Goods by vessel in GST regime – Ashish Bajaj, GSTL, Vol. 9 : Part 4, dated 22.02.2018.
- Attributes of composition scheme in VAT regimes – Reflections from European Court of justice – Tarun Jain, GSTL, Vol. 9 : Part 4, dated 22.02.2018.
- Taxability of free supplies – Dr. Sanjiv Agarwal, Business Advisor, dated 25.02.2018.

QUOTE TO FOLLOW!



You can't change the direction of the wind but you can adjust the sails to reach your destination.

Humor



Tax consultant	:	Sir, you will have to pay Service Tax on all transactions for the period prior to 01.07.2017. Only in case of exports, it will not be taxed.
Neerav Modi	:	But I am not in India. How can they tax me.
Tax consultant	:	Export of service is exempt, not export of defaulter.



KNOWLEDGE HUB



Holi-the festival of colours!!

- Traditional Hindu holy day began in India as a way to welcome spring's arrival. Arising on the evening of the full moon (known as Purnima) in the month of Phalgun, this two-day-long feast-for-the-eyes fête falls somewhere between late February and mid-March.
- This year's Holi runs from March 1st to March 2nd.
- But Holi doesn't just celebrate spring's radiant return. It also symbolizes the triumph of good over evil, or spring's defeat of winter.
- So on the ancient festival's first night, known as *Holika Dahan*, or *Chhoti Holi*, revelers gather around a raging bonfire and perform religious rituals in recognition of the victory.
- The morning after, called *Rangwali Holi*, festival goers dance, play, and throw gulal, a vibrantly tinted powder, at each other in a rainbow-colored, nature-inspired free-for-all.
- The pigmented powder, which celebrants sometimes mix with water and toss in balloons, signifies the coming of spring and all the eye-catching shades the season brings to life.
- And each of the four main bold and beautiful gulal hues — red, blue, yellow, and green — represent a unique attribute of the day's celebration.

Red symbolizes love and fertility.

Blue honors Krishna, Hindu god of compassion, tenderness, and love.

Yellow is the color of turmeric, and green stands for new beginnings.

May your life be colored with the hues of happiness!!

Enjoy the festive spirit and the music of celebration....

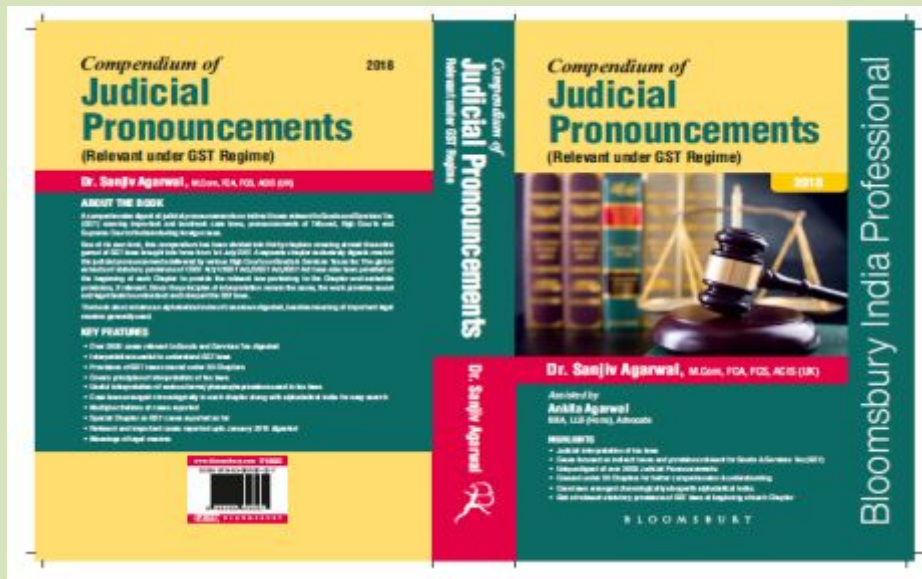
Happy Holi!!!

ANNOUNCEMENTS

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



NEW TITLE ON GST
 by
 Dr. Sanjiv Agarwal



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



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 1st 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

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:
asandco@gmail.com
ascogst@gmail.com

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