

Tax Bulletin

Update publication for our clients

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FOREWORD

This year, approaching December involves gearing up for *de novo* GST Annual Return and Audit which needs to be finalized by December 31, 2018. While extension of timeline cannot be denied as a possibility, our endeavor at all times should be to be prepared and march toward a successful closure of 2018. This herculean task requires trade, industry and GST practitioners to ensure that they are abreast with all the latest developments and updates on the taxation front.

Accordingly, we have compiled the **7th Edition of the Tax bulletin** in relation to Direct Tax (i.e. Income Tax) and Indirect Tax (i.e. GST, Customs law and FTP).

Warm Regards,

Team VK&S

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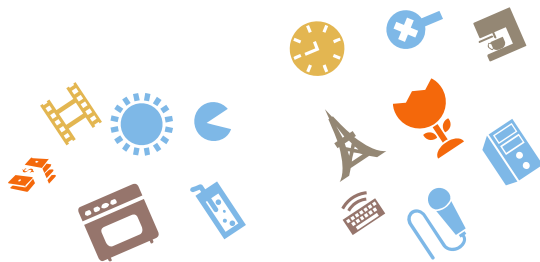
Income Tax updates

- Computer Aided Scrutiny Selection (CASS)
- Payment of Advance Tax
- Legal Snippets

Computer Aided Scrutiny Selection (CASS)



- ❖ CASS is a system based method for scrutiny selection which identifies the cases through data-analytics and 360° data profiling of taxpayers and in a non-discretionary manner.
- ❖ Through CASS, cases are being selected in two categories viz. **Limited Scrutiny** (On specific points & issues mentioned in notice) and **Complete Scrutiny**.
- ❖ Apart from CASS, manual selection for scrutiny is done by jurisdictional Assessing Officer based on pre-defined parameters. Such Parameters for scrutiny selection during FY 2018-19 is published vide Instruction No.4/2018 dated 20th August, 2018



Due precautions need to be taken while filing Income Tax Return to avoid unwanted scrutiny selection

Payment of Advance Tax



- ❖ In December 2018, the 3rd installment of Advance Tax is due as tabulated below:

Due Date	Advance Tax Payable
On or before 15th June	15% of advance tax
On or before 15th September	45% of advance tax
On or before 15th December	75% of advance tax
On or before 15th March	100% of advance tax

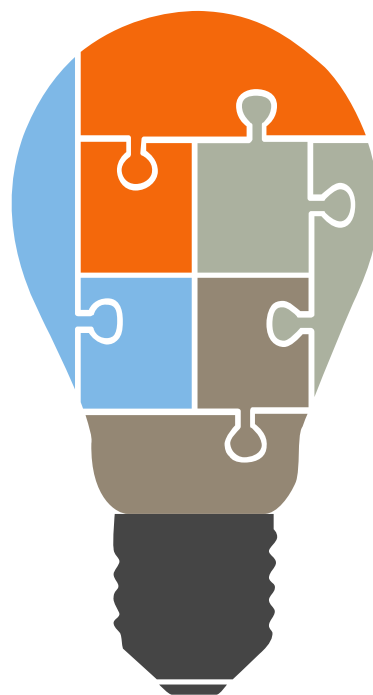
Delay / short payment of advance tax attracts interest U/s 234B & 234C of Income Tax Act, 1961

- ❖ Advance tax provisions applicable to all tax payers, if total tax liability after adjustment of TDS is expected to be more than Rs 10,000/-
- ❖ Taxpayers who opt for presumptive scheme have to pay whole amount of their advance tax in one instalment on or before 15th March
- ❖ Senior citizens, who are 60 years or older, and do not run a business, are exempt from paying advance tax.

Legal Snippets

Simply because transactions are made through banking channels, it does not necessarily follow that satisfaction as to creditworthiness & genuineness of parties also stands established, matter reminded back for fresh enquiry

[Oswal Services Private Limited vs ITO 2018-TIOL-2311-ITAT-KOL]



Conversion of private limited company into LLP, as per mandate of Sec 47 is transfer, liable to capital gains tax

[ACIT, Mumbai Vs Celerity Power LLP(2018) TIOL-2312-ITAT-MUM]



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GST updates

- Notifications and Circulars
- GST Advance Rulings
- Legal Snippets

Changes in relation to TDS/TCS



GSTR -7 – Return to be filed by TDS Deductor

For the months from October, 2018 to December, 2018, due date extended up to January 31, 2019

TDS not applicable for PSU to PSU supply



From October 1, 2018, Government has notified that deduction of GST is required to be made by certain specified persons which includes a PSU.

However, by of Notification issued in November, TDS Provision are not applicable for supply from one PSU to another PSU

Collection of tax by Tea Board



Tea board of India, being operator of electronic auction system for trading tea across the country, qualifies as electronic commerce operator.

It has been clarified that being an ECO, Tea Board is required to collect TCS from:

- Tea producers (i.e. sellers) on net value of supply of goods i.e. tea; and
- Auctioneers on net value of supply of services (i.e. brokerage)

Clarification - Del-credere agent

Who is a Del-credere agent?

- DCA is a selling agent engaged by principal to assist him in his business by contacting potential buyer on his behalf.
- DCA guarantees the payment to the supplier.



How does DCA ensure timely payment ?

- Extends short-term transaction-based loan to the buyer which is repaid with interest
- Pays the supplier (principal) upfront and recovers the amount from the buyer (recipient) with interest

Clarification provided regarding inclusion of interest in valuation

Particulars	DCA is not agent i.e. invoice issued in the name of DCA to buyer	DCA is agent i.e invoice issued by principal on the buyer
Nature of loan transaction	To be seen as independent supply as it is principal to principal basis	The loan will no longer retain its character of an independent supply and will be seen to be in context of the supply of goods made by DCA to recipient
Treatment of Interest	Interest will be seen an exempt income in accordance with Exemption Notification	Interest to be included in value of supply of goods by DCA to recipient as per Section 15(2)(d)


Extension of due date - GST Returns (Specified area)



For registered person whose place of business is in Srikakulam of Andhra Pradesh

GSTR - 3B		GSTR - 1			GSTR - 4	
Month	Due date	Aggregate turnover	Quarter / Month	Due date	Quarter	Due date
Sept, 2018	November 30, 2018	< 1.5Cr	July - Sept, 2018	November 30, 2018	July - Sept, 2018	November 30, 2018
October, 2018						
		> 1.5Cr	Sept and October 2018	November 30, 2018		

For registered person whose principal place of business is in Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu



Return	Month	Due Date
GSTR-3B	October 2018	December 20, 2018
GSTR - 1 (Aggregate turnover more than 1.5Cr)		

Improvement in E-way Bill generation

1. E-way bill system will not allow to generate duplicate e-way bill based on same invoice.
2. CKD/SKD/Lots supply type can be used for movement of big consignment of export or import. The Batch consignment will have delivery challan along with copy of tax invoice or Bill of entry. The last batch will have delivery challan along with original tax invoice or Bill of entry.
3. For export supply type 'Bill to' party will be URP or GSTIN of SEZ Unit with state as 'other country' and shipping address and PIN code of location from where the consignment is moving out from the country.
4. For import supply type 'Bill from' party will be URP or GSTIN of SEZ Unit with state as 'other country' and dispatching address and PIN code of location from where the consignment is entered the country.
5. E-way bill generation is now categorized to four types:
 - Regular
 - Bill to ship to
 - Bill from dispatch from
 - Combination
6. New column added in the bulk generation tool.



Other changes / observations / press releases

1

Advisory for UINs

- UIN are allotted to consulates, embassies and other UN organization to enable claim GST refund.
- Form GSTR-11 mandates reporting 'place of supply' for every invoice on which refund is applied for,
- Advised to be careful in filling place of supply in invoice level.
- Wrong reporting may lead to delay in processing/rejection of refund claims.

2

Examination of GST Practitioners

- Result of examination of GST Practitioner held on 31.10.2018 is declared.
- Next exam date is postponed to 17.12.2018.

3

Assurance on refunds

- The disposal rate of refund of 93.80% has been as on 31.10.2018.
- In case of IGST refunds, about 93.27% of total refunds are transmitted to Customs from GSTIN and disposed for remaining deficiencies is communicated for remedial action.
- In case of ITC refund claims of Rs.159 Crore is pending with Centre and Rs. 2,146 crore is pending with states. For pending claims of Rs.5,239 Crore, deficiency memos have been issued.

GST Legal Snippets – From the High Courts

Officer cannot insist for payment in cash



Pioneer Polyleathers Ltd Vs Assistant State Tax Officer [Kerala HC]

Issue: Petitioner sought to release goods detained by State tax officer on payment through portal, but officer insists to make payment in cash or demand draft.

Ruling: Government has ushered in the GST Tax regime to ensure that everything is made online with minimum manual interventions.

The Assistant State Tax Officer is directed to release the goods and the vehicle forthwith.

Rate cannot be disputed by State officer at the time of detention



NVK Mohammed Sulthan Rawther And Sons Vs UoI [Kerala HC]

Issue: Can authority detain the petitioners' commodity en route alleging that the rate of tax is 18% and not 5% as shown in the invoices?

Ruling: Process of detention cannot be resorted to when dispute is bona fide, especially, concerning exigibility of tax and, more particularly, rate of that tax. Therefore, to the extent the petitioner's conduct cannot be faulted, nor can he be accused of evading the tax - at best the inspecting authority can alert the assessing authority to initiate the proceedings.

SGST paid instead of IGST



Saji S Vs Commissioner, State Tax Department [Kerala HC]

Issue: Payment of tax and penalty for release of goods under wrong head i.e. SGST instead of IGST. Authorities refused to release goods

Ruling: Respondent officials to allow the petitioner's request and get the amount transferred from the head 'SGST' to 'IGST' - it is inequitable for the authorities to let the petitioner suffer on the count that such transfer may take some time

GST – Advance Rulings



As per Section 97(1) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), an applicant desirous of obtaining an advance ruling may make an application to the Authority for Advance Ruling ('AAR')

The broad objective for setting up a mechanism of Advance Ruling is to provide certainty in tax liability in advance, in relation to an activity proposed to be undertaken by the applicant and reduce litigation. Under GST, advance ruling can be obtained for a proposed transaction as well as a transaction already undertaken by the applicant

It may be clarified that an Advance ruling is binding only on the applicant who has sought the advance ruling and on the concerned officer or the jurisdictional officer in respect of the applicant


However, the Rulings help us to ascertain the mind-set and interpretation that may be adopted by the Department. Accordingly, we have discussed a few Advance rulings issued in the past months in the subsequent slides

Ruling of Appellate Authority and Authority for Advance Ruling



MERIT HOSPITALITY
SERVICET LTD
(Appellate
Authority,
Maharashtra)

Supply made by the appellant to the employees of the unit located in SEZ **cannot be construed as Zero-rated supply** as the employees can neither be treated as SEZ developer nor as SEZ unit



PREMIER
VIGILANCE &
SECURITY PVT LTD
(Authority, West
Bengal)

Applicant transports cash/coins/bullion of banks in specially built vehicles. Toll taxes paid by applicant are cost of the services provided to the bank. Reimbursement of toll taxes are to included in value of supply.

INDIAN INSTITUTE
OF MANAGEMENT
(Authority, West
Bengal)

Applicant is an educational institutions even after introduction of IIM Act and therefore eligible for exemption.

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Custom updates

- Notifications and Circulars

Tariff and Anti Dumping Notifications

Notification No.	Implications
77/2018	Seeks to further postpone the implementation of increased customs duty on specified imports originating in USA from 2nd November, 2018 to 17th December, 2018
78/ 2018	Amends Notification No. 57/2000 dated 8-5-2000 which provides exemption from Customs Duty to silver, gold and platinum imported as replenishment for the scheme for export through exhibitions/export promotion tours/export of branded jewellery or under the scheme for export against supply for nominated agencies. <i>In this regard, the present Notification prohibits replenishment where exporter avails credit on inputs / inputs services or claims refund of ITC/ IGST</i>
55/2018-Cus (ADD), dt. 15-11-2018	Seeks to extend existing anti-dumping on "O-Acid" originating in or exported from China PR and imposed vide notification No. 6/2018-Customs (ADD) dated 12th March, 2018 to the imports originating and exported from China PR of "O-Ester".



Customs – Clarifications / Instructions

E-sanchit for exports

On successful implementation of e-sachit pilot run at Air Cargo Complex, Delhi and Chennai Customs House, e-sanchit facility now being extended to all ICES locations on PAN-India basis for all types of exports.

Supporting documents in relation to Shipping Bill may now be filed online.

The Shipping Bill Regulations 2011 provide for digital signature of export documents and requires retention of originals for 5 years

Procedure for uploading document, verification ,etc . provided.

Exporters should start using this facility as it will be made mandatory

Procedure for on Transhipment of Export Cargo from Bangladesh to third countries through Land Customs Stations (LCSs) to Kolkata Port / Airport, in containers or closed bodied trucks prescribed

Regulations to be issued after observations from a 6 month pilot run
Facility available for select LCSs in Bangladesh and select ports/ air cargos in India.



Beneficiaries must be registered with ICEGATE

Licenses, permits, certificates and other authorizations to be digitally signed and uploaded online. As of now, following Government Agencies to undertake e-uploads:

Wildlife Crime Control Bureau
Central Pollution control Board
Central Drug Standard Control Organization



Customs – Clarifications / Instructions



Formats specified for submission of arrest report and incident report under Customs Act

Procedure for processing **IGST Refund** claims for exports made from Non-EDI sites clarified.



In light of the advisory issues in relation to e-cigarettes, Customs officers have been directed to refer import consignments of electronic nicotine delivery system (ENDS) to the Drugs Controller.



4 FTP updates

- Notifications, Public Notices, Circulars & Trade Notices.

FTP Public Notices

Subject	Implications
Amendment of Appendix - 2T of Appendices and Aayat Niryat Forms of Foreign Trade Policy, 2015-2	Head office of Services Export Promotion Council ('SEPC') has been changed. To:- 509-511 and 514-518, 5 th floor, Apparel House, Institutional Area, Sector - 44, Gurgaon - 122003
Extension of the validity period of EPCG Authorization	The validity period of the EPCG Authorisation has been extended from 18 months to 24 months - Public Notice issued on November 16, 2018 Extended validity shall also apply to EPCG Authorization issued prior to issuance of public notice whose validity has not expired up to November 16, 2018
Amendment in the Appendix 3, Table 2 of the Merchandise Exports from India Scheme (MEIS)	DGFT has announced MEIS scheme for the exports of Non Basmati Rice made between 26.11.2018 to 25.03.2019. Rate of MEIS benefit is 5%. HS Codes under Non-Basmati Rice are:- 1. 10062000 whose description is Husked (brown) Rice; 2. 10063010 whose description is Rice, Parboiled; 3. 10063090 whose description is Other and 4. 10064000 whose description is Broken Rice.



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ANY QUESTIONS?

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