

# NEWSLETTER

DECEMBER 2017

J P Chawla & Co. LLP  
Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



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DECEMBER  
2017

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**January 30<sup>th</sup>  
2018,**

## **CEO's Message**

The New Year has brought about a new hope for the Indian economy, with the Economic Survey 2018 projecting a healthy growth at 7-7.5% for the next fiscal year 2018-19

The prime minister of India, Mr. Narendra Modi attending the world economic forum in this month, emphasized the importance of collective growth of world economies, importance of Big Data and cyber security.

On the economic side, India's export of software services rose by 10.3 per cent on an annual basis to USD 97.1 billion in 2016-17. The export of software services -- excluding the one through commercial presence -- was USD 88 billion in 2015-16. The USA and Canada remained the top destinations of India's export of software services, followed by Europe in which the UK accounted for nearly half.

On corporate regulatory arena, the Ministry of Corporate Affairs (MCA) has introduced condonation of delay scheme for defaulting companies who has not filed its annual return or financial statements for a period of continuous period of 3 years. This is a major relief for all directors of defaulting companies.

In GST, Central Government has notified 1st February 2018, as the date from which the provision of E-Way bill system shall come into force.

We sincerely hope this late January news letter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations such as company law etc.

Happy

Reading!!

Sincerely

Yours,

**Rajat Chawla**

**Managing Partner  
& CEO New Delhi**

## The Month That Was

India's export of software services rose by 10.3 per cent on an annual basis to USD 97.1 billion in 2016-17. The export of software services -- excluding the one through commercial presence -- was USD 88 billion in 2015-16. The USA and Canada remained the top destinations of India's export of software services, followed by Europe in which the UK accounted for nearly half. Export of computer services ruled, with private and public limited companies accounting for equal shares during the year. The US dollar was the principal invoicing currency, making up 73 per cent of software exports, followed by the pound sterling and the euro. Exports of the remaining companies were estimated using the distribution pattern after classifying them in four groups -- IT services, BPO services, engineering services and software product development.

Some of the other highlights of December 2017 are:-

**Gems & jewellery exports up 50%:** In a sharp turnaround in global consumer sentiment, gems and jewellery exports from India jumped 56 per cent in November after a sustained decline over the previous months. Gems and jewellery exports from India are down by over 13 per cent, year on year, between April and October 2017. During the first seven months of the current financial year, gems and jewellery exports fell 13.18 per cent to \$19.57 billion (Rs 1,26,172 crore) from \$21.73 billion (Rs 1,45,331 crore) in the same period last year.

**Udyami Mitra Portal:** Small Industries Development Bank of India (SIDBI) has launched the 'Udyami Mitra' Portal ([www.udyamimitra.in](http://www.udyamimitra.in)) to improve accessibility of credit and handholding services to Micro, Small and Medium Enterprises (MSMEs). Scheduled Commercial Banks (SCBs) have been advised to ensure a target of 7.5% of Adjusted Net Bank Credit (ANBC) for Micro Enterprises, that collateral security is not required for loans upto Rs. 10 lakh to MSE sector, a simplified working capital requirement for MSEs.

**DIPP approves 2 FDI proposals in retail sector:** Two foreign direct investment (FDI) proposals worth over Rs 400 crore were approved by the department of industrial policy and promotion (DIPP) in the retail sector. FDI into the country grew 17 per cent to USD 25.35 billion during April-September this fiscal

**Agreement with Japan For Bullet Train Project:** A Memorandum of Cooperation has been signed between Governments of India and Japan to implement Mumbai-Ahmedabad high speed rail corridor with technical and financial assistance of Government of Japan. Government of Japan has agreed to provide 81% of the project cost at a very concessional interest rate of 0.1% with repayment period of 50 years.

**Cabinet approves new Consumer Protection Bill:** On misleading ads, the bill provides for fine and ban on celebrities. In case of first offence, the fine will be up to Rs 10 lakh and a one-year ban on any endorsement. For the second offence, the fine will be up to Rs 50 lakh and up to three years' ban. However, for manufacturers and companies, penalty is up to Rs 10 lakh and up to two years' jail for the first offence. The fine will be up to Rs 50 lakh and five years' jail for subsequent offence. The bill also provides for penalty and up to life term jail sentence in case of adulteration.

# TAX

## Direct Tax

In Direct taxes in view of the difficulties faced by some of the taxpayers in the process, the date for linking of Aadhaar with PAN has been extended to March 31, 2018. CBDT prescribes alternative communication address for service of notice, summons, requisition & order by delivering the same to the address available with Bank, post office etc. In International Tax, OECD has released condensed version of 2017 edition of the OECD Model Tax Convention incorporating significant BEPS changes. Further, GST council has notified the E-way Bill to be effective from 01<sup>st</sup> February, 2018 and extended certain due dates to file GST Returns

### **1. CBDT: Prescribes alternative communication addresses for service of notice, summons & orders to taxpayers:**

CBDT amends Rule 127 of the Income-tax Rules relating to service of notice, summons, requisition, order by inserting new proviso under sub-rule(2) which provides that where the communication cannot be delivered or transmitted to the taxpayer's registered office or at the address available in PAN database or income-tax return, the communication shall be delivered or transmitted to the address of the assessee as available with the Banks or Post Office or Insurer or at address available in Government/Local authority records or in Form 61A (i.e. Statement of Financial Transactions). The amendment shall come into force from the date of its publication in the Official Gazette.

### **2. CBDT extends last date for linking of Aadhaar with PAN to March 31, 2018 :**

The Central Board of Direct Taxes (CBDT) has given more time for taxpayers to link their Aadhaar with the permanent accountant numbers (PAN). The earlier specified deadline of December 31, 2017 has been extended to March 31, 2018.

### **3. HC Denies adjustment upto Rs.20,000 threshold u/s 269SS for 'cash' loan, upholds penalty:**

Allahabad HC upholds penalty levy u/s 271D for cash loans taken by assessee-individual in violation of Sec.269SS provisions during AY 1999-00 and rejects assessee's claim that in view of the statutory limit of Rs. 20,000 contemplated u/s. 269SS, penalty could be imposed only in respect of cash loans taken in excess of that amount. Allahabad HC opines that the legislature clearly contemplates that loan in excess of Rs. 20,000/- should be taken only through banking channel and not through cash mode, and remarks that **"There is no room for allowing the benefit of the loan taken up to Rs. 20,000/-"**

### **4. Allows additional depreciation u/s 32(1)(iia) on machinery used for production of ready mix concrete:**

Madras HC reversed ITAT order, allows additional depreciation u/s 32(1)(iia) on the machinery used for production of ready mix concrete for AY 2011-12 in the case of the assessee engaged in the business civil and industrial constructions &

manufacture & sale of ready mix concrete. HC noted that the AO had denied the claim by stating that the assessee is in the business of civil construction & not manufacturing and observed that the assessee was engaged in manufacture of ready mix concrete for which it procured necessary raw materials such as sand, crushed stone, cement fly-ash & gypsum, these were poured into the batching plant; HC noted that the once the ready mix concrete is prepared, the ingredients used lose their original character & can never be restored to their original character, accordingly holds that this amounts to manufacture.

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**5. Succession of sole proprietor by company - taxable transfer, where consideration received other than shares: [Continental Warehousing Corporation Ltd.]**

Bangalore ITAT holds that transfer of assets by sole proprietary concern succeeded by the assessee company was not exempt u/s 47(iv) where the Container Freight Station (CFS) of which the assessee is the proprietor was transferred to the transferee M/s. Continental Warehousing Corporation [NHAVA SEVA] Ltd., for a consideration by way of allotting equity shares to the assessee and balance in the form of unsecured loan. ITAT notes that for the exemption u/s 47(iv), the sole proprietor should not receive any consideration or benefit directly or indirectly other than by way of allotment of shares in the company. ITAT further notes that sole proprietor apart from getting allotment of shares in the purchased company also received the consideration in the form of unsecured loan; Therefore, ITAT holds that the assessee is not entitled to any benefit u/s. 47(xiv).

**6. SC allows Trusts' double-dip depreciation claim, Finance Act 2014 amendment not retrospective:**

SC dismisses Revenue's appeal in batch of over 50 cases, allows assessee's (charitable institutions/trusts) depreciation claim on fixed assets. SC Rejects Revenue's stand that once the capital expenditure on account of cost of asset was treated as application of income for charitable purposes, the grant of depreciation would amount to giving double benefit to assessee; SC approves Bombay HC ruling in Institute of Banking Personnel Selection, wherein it was held that the income of the Trust is required to be computed u/s. 11 on commercial principles after providing for allowance for normal depreciation from Trust's gross income, despite full expenditure allowed in the year of acquisition of assets. SC takes note of Sec. 11(6) which was inserted by Finance (No. 2) Act, 2014 w.e.f. April 1, 2015, and which provides that the income to be determined for the purposes of application or accumulation shall not include a deduction or allowance by way of depreciation or otherwise in respect of any asset, the acquisition of which has been claimed as an application of an income u/s 11 in the same or any other previous year. SC approves Delhi HC's view that Sec. 11(6) cannot be applied retrospectively to AYs prior to AY 2015-16.

## **International Taxation:**

**1. OECD tax talks highlight digital economy, MAP peer-reviews & forthcoming G20 agenda:**

OECD tax talks eight session provides an update on revenue statistics, tax challenges of the digitalized economy, MLI matching results, Mandatory Disclosure Rules and mutual agreement procedures (MAP). Pascal Saint-Amans (Director, Centre for Tax Policy and Administration) updates that post the US signing bilateral agreements with France and Jersey, there are currently 67 signatories to CbCR MCAA. David Bradbury (Head of Tax Policy and Statistics) highlights the work done by tax force on digital economy ('TFDE'), states that the Interim Report to be presented in April 2018 shall focus on the business model (i.e. analysis of how digitalization is affecting markets and business models), tax policy developments (i.e. assessment of impact of BEPS measures and overview of key measures already taken by countries), long term solution, interim measures and next steps i.e. setting out concrete roadmap for future.

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**2. OECD's peer review on Germany, France, Italy indicates longer timeline for MAP resolution:**

OECD released second round of Stage I peer review reports on implementation of BEPS minimum standards on improving tax dispute resolution mechanism covering 7 countries viz. Austria, France, Germany, Italy, Liechtenstein, Luxembourg and Sweden. The seven reports include over 170 recommendations relating to the minimum standard.

**3. OECD releases 2017 Model Tax Convention incorporating BEPS changes:**

OECD releases condensed version of 2017 edition of the OECD Model Tax Convention incorporating significant BEPS changes. This shorter version contains the articles and commentaries of the Model Tax Convention on Income and Capital as it read on November 21, 2017. The 2017 edition of the OECD Model mainly reflects a consolidation of the treaty-related measures resulting from the work on the OECD/G20 BEPS Project under Action 2 (Neutralizing the Effects of Hybrid Mismatch Arrangements), Action 6 (Preventing the Granting of Treaty Benefits in Inappropriate Circumstances), Action 7 (Preventing the Artificial Avoidance of Permanent Establishment Status) and Action 14 (Making Dispute Resolution More Effective). OECD press release states that the full version of the OECD Model Tax Convention, including the Articles, Commentaries, non-member economies' positions, and historical notes, will be published in the coming year.

**4. OECD seeks input on new tax rules requiring disclosure of CRS avoidance arrangements:**

OECD releases discussion draft on Mandatory Disclosure Rules for addressing arrangements which are designed to circumvent Common Reporting Standards (CRS) (CRS Avoidance Arrangements) and use of non-transparent offshore structures to conceal actual beneficial ownership (Offshore Structures). Proposed rules require an Intermediary (or taxpayer) to disclose certain relevant information to its tax administration regarding CRS Avoidance Arrangements and Opaque Offshore

Structures which can assist tax administrations in gathering intelligence on schemes that are being used or marketed to taxpayers in their respective jurisdictions. Report sets out five key elements in the design of a mandatory disclosure regime, viz. (a) A description of the arrangements that are required to be disclosed (b) A description of the persons required to disclose such arrangements (c) A trigger for the imposition of a disclosure obligation , (d) A description of what information is required to be reported (including any exceptions from reporting) and (e) Appropriate penalties for non-compliance; Seeks comments on this consultation draft by January 15, 2018.

## Transfer Pricing Updates:

### **1. Upholds LIBOR based interest rate ALP for outstanding AE-receivables; Follows precedents [Delhi Call Centers Pvt. Ltd]:**

Delhi ITAT upholds CIT(A)'s determination of ALP based on LIBOR in respect of interest on delayed AE-receivables for AY 2009-10. ITAT notes that TPO treated outstanding AE-receivables as an international transaction and determined ALP of receivables exceeding 6 months at 16% based on SBI prime lending rate + 300 bps. However, CIT(A) directed AO/TPO to charge LIBOR based interest rate following Kohinoor Foods ruling. ITAT notes that the issue whether outstanding AE-receivables was an international transaction or not was not disputed and therefore proceeds to decide only on the disputed interest rate ALP of the transaction.

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Noting that assessee had raised invoices in Australian Dollar & US Dollar, ITAT relies on Tech Mahindra ruling wherein it was held that interest rate ALP should be taken from the country of the borrower/debtor. Also relies on Delhi HC ruling in Cotton Naturals wherein it was held that interest rates should be the market determined interest-rate applicable to the currency concerned in which the loan has to be repaid; Thus, remits issue back to AO/TPO to compute interest rate by applying LIBOR prevalent during the relevant period in case of Australian Dollar/US Dollar plus suitable basis point keeping in view the credit score of the AEs.

### **2. Company having different accounting period excludible despite functional comparability; Follows PTC HC-ruling [Applied Micro Circuits India Pvt Ltd]:**

Pune ITAT rules on selection of comparables for assessee providing design engineering services to AE for AY 2010-11. Upholds exclusion of Coral Hub Ltd as it followed a different accounting period (comprising of 15 months) and opines that "Even if concern is functionally comparable, it cannot be selected because of different accounting period", follows PTC Software Bombay HC ruling.

### **3. Deletes TP-adjustment as assessee's R&D activity, not international transaction; Follows own HC-order [Honda R & D (India) Pvt. Ltd]:**

Delhi ITAT rules in assessee's favour, deletes TP-adjustment for assessee engaged in R&D activities for Honda products in India for AY 2006-07 and 2007-08. ITAT noted that TPO found that assessee was customizing Honda Technology used in 4 & 2 wheelers to suit the requirement of Indian Customer, but benefit of such customized technology earned by the Parent Company from Indian subsidiaries was not shared with the assessee, and thus proposed adjustment. ITAT observes that Delhi HC in



assessee's own case for AY 2005-06 had restored the matter back to ITAT after categorically mentioning that assessee was not into Core R&D activity. Accordingly, holds that "since the finding of the Hon'ble High Court for Assessment Year 2005-06 has clearly concluded that...the assessee has not carried out any research and development activity, the same cannot be taken into account for rendering services as per international transactions". Thus, ITAT concludes that "the assessee company has not carried out any international transaction". Regarding working capital adjustment notes that HC decision was not available before the TPO and DRP, thus restores the matter to AO/TPO to verify the same.

#### 4. Royalty payment when AE was independent entity, an 'uncontrolled transaction'; Deletes TP-adjustment [Kalyani Hayes Lemmerz Ltd]:

Pune ITAT upholds CIT(A)'s deletion of TP-adjustments related to assessee's payment of royalty to AE for AYs 2004-05 and 2005-06, ITAT rejects TPO's Nil ALP determination. For AY 2003-04, notes that assessee's Rs. 33.29 lakh royalty payment to AE followed an RBI-approved agreement which was initially entered into in 1992 between two unrelated parties (Lemmerz Werke Gmbh and Bharat Forge Ltd. before the latter's Wheel Rim Division was acquired by assessee-JV in 1996). ITAT holds that "where the price paid to associated enterprises was the same as entered when it was an independent entity, the same has to be considered as uncontrolled transaction", relies on Mumbai ITAT's Ballast Nedam Dredging ruling. Further, rules that "where the assessee has paid royalty to its associated enterprises as per the rates which were approved by RBI, the said transaction would be at arm's length price.

## Goods and Service Tax

### Extension of time limits for filing GST-5, GSTR-5A and Form GST ITC-01

The Central Government on recommendation of council hereby extends the due date for filing the following form.

Form	Description	Period	Due Date	Extended Date
(A)	(B)	(E)	(C)	(D)
Form ITC-01	Form to be filed by a registered person after taking registration to the effect that he is eligible to avail the input tax credit	July 2017- November 2017	31 <sup>st</sup> October 2017 <i>(Notification No 44/2017- Central Tax dated 13.10.2017)</i>	31 <sup>st</sup> January 2018 <i>(Notification No. 67/2017-Central Tax dated 21.12.2017)</i>

Form GSTR-5	Return for Non-Resident taxable person	July 2017- 11 <sup>th</sup> December 2017	11 <sup>th</sup> December 2017  (Notification No. 60/2017- Central Tax dated 15.11.2017)	31 <sup>st</sup> January 2018  (Notification No. 68/2017 Central Tax dated 21.12.2017)
Form GSTR-5A	Return of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable person in India	July 2017- 15 <sup>th</sup> December 2017	15 <sup>th</sup> December 2017  (Notification No. 61/2017- Central Tax dated 15.11.2017)	31 <sup>st</sup> January 2018  (Notification No. 68/2017 Central Tax dated 21.12.2017)

- **Extends the due date for furnishing Form GSTR-1 with aggregate turnover INR 1.50 Crore**

As per the Notification No. 71/2017 Central Tax dated 29<sup>th</sup> December 2017 and in suppression of notification No.57/2017 - Central Tax dated 15<sup>th</sup> November 2017, Central Govt. on recommendation of council hereby notified that all the registered person having turnover of up to 1.50 crore rupees in preceding financial year or current financial year may furnish the details of outward supply of goods or services or both in the Form GSTR-1 on quarterly basis.

The below mentioned table specifies the due date for filing of GSTR-1, namely:

S.No	Quarter for which the details in Form GSTR-1 are furnished	Due date for filing of Form GSTR-1
1	July - September 2017	10 <sup>th</sup> January 2018
2	October - December 2017	15 <sup>th</sup> February 2018
3	January - March 2018	30 <sup>th</sup> April 2018

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- **Extend the due date for furnishing Form GSTR-1 with aggregate turnover more than INR 1.50 Crore**

As per the Notification No. 72/2017 Central Tax dated 29<sup>th</sup> December 2017 and in suppression of notification No.58/2017 - Central Tax dated 15<sup>th</sup> November 2017, Central Govt. on recommendation of council hereby notified that all the registered person having turnover of more than 1.50 crores rupees in preceding financial year or current financial year may furnish the details of outward supply of goods or services or both in the Form GSTR-1 on monthly basis.

The below mentioned table specifies the due date for filing of GSTR-1, namely:

S.No	Quarter for which the details in Form GSTR-1 are furnished	Due date for filing of Form GSTR-1
1	July - November 2017	10 <sup>th</sup> January 2018
2	December 2017	10 <sup>th</sup> February 2018
3	January 2018	10 <sup>th</sup> March 2018
4	February 2018	10 <sup>th</sup> April 2018
5	March 2018	10 <sup>th</sup> May 2018

- **Waive off the late fees for failure to furnish the return in Form GSTR-4**

As the per Notification No. 73/2017- Central Tax dated 29<sup>th</sup> December 2017, Central Government has waived off the late fee payable by any registered person for failure to furnish the return in Form GSTR-4 (by Composition tax payers) by the due date.

- **Notified E-Way bill Mechanism**

The Central Government vide Notification No. 74/2017- Central Tax dated 29<sup>th</sup> December 2017 has notified 1<sup>st</sup> February 2018, as the date from which the provision of E-Way bill system shall come into force.

- **Amendment in CGST Rules, 2017** (*Fourteen Amendment Rules*)

The Central Government vide Notification No. 75/2017- Central Tax dated 29<sup>th</sup> December 2017 hereby makes the following rules further to amend the Central Goods and Service Tax Rules, 2017.

**i. Amendment in Registration**

After Rule 17 sub Rule (1) a new rule (1A) shall be inserted.

As per the rule, where any special category agency of the United Nation Organisation or any multilateral Financial Institution and Organisation notified under the United Nation Act, 1947 has been granted a Unique Identification Number under this act, such UIN shall be applicable to the territory of India.

After Rule 19 sub Rule (1) a new rule (1A) shall be inserted.

earlier than the date of submission of the application in Form GST REG-14 on the common portal except with the order of the Commissioner for reason to be recorded in writing and subject to such conditions as the Commissioner may, said in the order.

## **ii. Substitution in Rule 89**

Rule 89 sub rule (4) of CGST Rules, 2017 provides the formula to calculate the refund amount in case of zero rated supply of goods or services. The following formula shall be applicable for computation of refund

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$

## **iii. Refund of Tax to Certain Persons**

For sub rule (1), the following sub rule shall be substituted, namely:

Any specialized agency of the United Nation Organisation or any Multilateral Financial Institution entitled to claim a refund of taxes paid by him on the supplies of goods or services shall apply for refund in Form GST RFD-10 once in every quarter along with a statement of the inward supplies of goods or services or both in Form GSTR-11.

The following word shall be omitted under sub- rule (3) in clause (a):

The words “and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any shall be omitted”.

## **iv. Refund of Integrated Tax paid on Goods Exported Outside India**

W.e.f. 23<sup>rd</sup> October 2017, in Rule 96 the following rules and words shall be inserted, namely:

(a) In the heading, after the word “paid on goods” the words “paid on services” shall be inserted;

(b) Rule 9 shall be inserted, namely:

As per Rule 9, “The person claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the supplier has availed the benefit of Notification No. 48/2017 -Central Tax dated 18<sup>th</sup> October 2017 or Notification No. 40/2017- Central Tax (Rate) dated 23<sup>rd</sup> October 2017 or Notification No. 41/2017 - Integrated Tax (Rate) 23<sup>rd</sup> October 2017.

## **Order & Circulars**

### **• Extension of time limit for details held in stock under Composition Scheme (Order No.11/2017- GST)**

The Central Government vide Order No. 11/2017- GST hereby extend the period till 31<sup>st</sup> January 2018 for filing of intimation of details held in stock in Form GST CMP-03, preceding the date from which the option to pay tax under composition scheme

- **Treatment of supply by an artist in various states and supply of goods from galleries**

As per the Circular No. 22/22/2017 - GST dated 21<sup>st</sup> December 2017, the supply of art works by artist in different states other than the states in which they are registered as a taxable person. In such case if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. For the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter;

The supplier shall issue a delivery Challan for the initial transportation of goods where such transportation is for reason other than by way of supply. Further, the E-Way bill shall be generated for such movement of goods. Further, where the tax invoice could not issue at the time of delivery, the same shall be issued after delivery of goods;

The above provision indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same state or to a place outside the state on a delivery Challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of work.

Hereby, it is clarified that the supplies of the art work from one state to another state will be inter-state supplies and attracts integrated tax.

It is further clarified the gallery to artist when the art works are sent to the gallery for exhibition and therefore, the same is not supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply take place and applicable GST would be payable at the time of such supply.

- **Maintain books of account relating to additional place of business by a principal or an auctioneer for the purpose of auction (Circular No. 23/23/2017-GST)**

The difficulties are being faced by a principal and an auctioneer in relation to maintaining books of account at each and every additional place of business related to stock of goods like tea, coffee, rubber etc. meant for supply through an auction. For the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

As per the provision of section 35(1) both the principal and auctioneer may be allowed to maintain the books of account relating to their additional place of business in such places. Both the principal as well as the auctioneer may be allowed to maintain the books of account relating to the additional place(s) of business at their principal place of business itself.

The principal and the auctioneer of tea, coffee, rubber etc. are required to declare warehouses where such goods are stored as their additional place of business. The buyer also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouse.

However, in case difficulties are faced in maintaining the books of accounts, they may maintain the books of account relating to additional place of business at their principal place of business instead of such additional place.

It is further clarified that this circular is applicable to the supply of tea, coffee, rubber etc. where the auctioneer claims ITC in respect of supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction.

- **Manual filing and processing of refund claims on account of inverted duty structure, deemed export and excess balance in electronic cash ledger. (Circular No. 24/24/2014- GST)**

Due to non-availability of the refund module on common portal, it has been decided by the competent authority, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders.

- 1) The refund claims in respect of zero rated supply and on account of inverted duty structure, deemed export and excess balance in electronic cash ledger shall be filed for a tax period in monthly basis in Form GST RFD-01.
- 2) Where the registered person having aggregate turnover of up to Rs. 1.50 Crore are opting to file Form GSTR-1 for a tax period on quarterly, such person shall apply for a refund on a quarterly basis.
- 3) The refund claim for a tax period may be filed only after filing the details in Form GSTR-1 for the said tax period. It is also to be ensured that a valid return in Form GSTR-3B has been filed before the refund application is being filed.
- 4) Since, the Form GSTR-2 and GSTR-3 are yet to be notified, it has been decided by the department to sanction refund of provisionally accepted input tax credit at this juncture.
- 5) However, an undertaking should be submitted manually along with the refund application that amount of sanction would be pay back to the government with the interest in case it is found that the requirement of section 16(2) read with sub section (2) of section (42) of CGST Act have not been complied with in respect amount of refunded.
- 6) Wherein certain supply of goods have been notified as a deemed export, the recipient or the supplier to apply for a refund of tax paid on such deemed export supplies. The documentary evidence require to file by a recipient of supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed by him. In case the refund is filed by a recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall file not file the refund in respect of such supplies.

- 7) Where an amount is rejected under either fully or partially, the amount debited to the extent of rejection shall be re-credit to the electronic credit ledger by an order made in From GST RFD-1B until the Form GST PMT -03 is available on the common portal.
- 8) The communication in respect of sanction of refund amount of central tax and state tax by the respective tax authorities through e-mail attaching the scan copy of sanction order.

▪ **Manual filing of applications for advance ruling and appeals before Appellate authority. (Circular No. 25/25/2017-GST)**

The Central Government vide Circular No. 25/25/2017 –GST dated 21<sup>st</sup> December 2017 has clarified the procedure for manual filing and processing of the application for advance ruling and processing of the application for advance ruling till the Advance ruling module is available on the common portal.

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The following conditions and procedure are prescribed for the manual filing and processing of the application.

- 1) An application for obtaining an advance ruling under subsection (1) of section 97 of the CGST Act and the rules made there under shall be made in quadruplicate, in FORM GST ARA-01. The application shall clearly state the question on which the advance ruling is sought. The application shall be accompanied by a fee of Rs. 5000/- which is to be deposited online by the applicant.
- 2) The application, the verification contained therein and all the relevant documents accompanying such application shall be signed by a person authorised. The following conditions and procedure are prescribed for manual filing of Appeal to Appellate Authority for Advance Ruling:

An appeal against the advance ruling issued under subsection (6) of section 98 of the CGST Act and the rules made there under shall be made by an applicant in quadruplicate, in FORM GST ARA-02 and shall be accompanied by a fee of ten thousand rupees deposited online.

An appeal made by the concerned officer or the jurisdictional officer referred to in section 100 of the CGST Act and the rules made there under shall be filed in quadruplicate, in Form GST ARA-03 and no fee shall be payable by the said officer for filing the appeal. As per section 100(2) of the CGST Act. The appeal shall be filed within a period of 30 days from the date on which the ruling sought to be appealed against is communicated to the applicant or the concerned officer or the jurisdictional officer, as the case may be.

The appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be signed by authorised signatory.

▪ **Filing of return under GST (Circular No. 26/26/2017-GST)**

The Central Government vide Circular No. 26/26/2017- GST dated 29<sup>th</sup> December 2017 has clarified the following issues in respect of filing of GST return.

- 1) Form GSTR-1 shall be filed on monthly basis by registered person having turnover more than 1.50 crore and shall be filed on quarterly basis having turnover up to 1.50 Crore.
- 2) Form GSTR-2 and Form GSTR-3 for the months of July 2017 to March 2018 would be worked out by committee officers and communicated later.
- 3) Registered person having composition scheme are required to file their returns quarterly in Form GSTR-4. The last date for filing of Form GSTR-4 is within eighteen days after the end of such quarter.
- 4) Once the registered person has chosen to file the return on monthly or quarterly basis, the registered person will not have the option to change the return periodicity for the entire financial year.
- 5) While any errors committed during filing of GSTR-3B return for the respective month, the same shall be rectified while filing Form GSTR-1 and Form GSTR-2 of the same month. It is clarified that system will automatically reconcile the data submitted in Form GSTR-3B, GSTR-1 and GSTR-2, and the variation if any will either be offset against output tax liability or added to the output tax liability of the subsequent months of the registered person.

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- 6) Where the tax payers has committed an errors in submitting (before offset and filing) the information in GSTR-3B, the provision of editing has been provided.
- 7) It is further clarified that the information furnished by the registered person in the return in FORM GSTR-3B would be reconciled by the department's system with the information furnished in FORM GSTR-1 and discrepancies, if any, shall be dealt with in accordance with the relevant provisions of the CGST Act, 2017 and rules made there under. Detailed instructions regarding reconciliation of information furnished in FORM GSTR-3B with that contained in FORM GSTR-2 and FORM GSTR-3 will be issued in due course of time.



## Assurance & Accounting

In Assurance and Accounting area there has been new guidance on Audit of Banks. Further, IASB has published Q&A guidance for the issue of financial guarantee contracts and also IFRS foundation published IFRS Taxonomy guide.

- **ICAI issues Exposure Draft of Guidance Note on Bank Audits**

Exposure Draft of the Guidance Note on Audit of Banks 2018 edition has been issued by the Auditing and Assurance Standards Board of the [Institute of Chartered Accountants of India](#). Guidance Note on Bank Audit to include guidance on Audit of Advance and NPAs, Asset Classification, Income Recognition and Provisioning, Risk Assessment and Internal Control, Guidance for Items of Bank's Financial Statement and Auditing Aspects, Guidance for Audit of Service Tax Liability/Goods and Service Tax, illustrative Format of Report and Engagement etc.

- **IASB published Q&A guidance on accounting for the issue of financial guarantee contracts under the IFRS for SMEs standard**

The IFRS Foundation has published Standard *IFRS for SMEs* guidance on the following public consultation. The guidance has been developed by the SME Implementation Group (SMEIG). The guidance is in the form of a question-and-answer document (Q&A) and advises how an issuer should account for financial guarantee contracts.

- **IFRS Foundation published IFRS Taxonomy guide for companies**

The IFRS Foundation has published a guide for companies using the IFRS Taxonomy. The guide explains how to tag information in financial statements prepared in accordance with IFRS Standards. The IFRS Taxonomy facilitates the digital creation and consumption of financial information. It improves investors' access to financial information by listing and defining specific codes, or elements, that can be used to tag items of data. Tagging enables investors to find, process and analysis data quickly and cost-effectively.

[Using the IFRS Taxonomy—A preparer's guide](#) helps companies to understand the IFRS Taxonomy content. Through the use of examples, the guide answers frequently asked questions on the use of the IFRS Taxonomy. Understanding the content of the IFRS Taxonomy can improve the quality and consistency of the tagging applied to financial statements.

This guide forms part of a set of documents produced by the IFRS Foundation to support the use of the IFRS Taxonomy around the world by regulators, companies and other users of financial information.

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## **REGULATIONS**

The Ministry of Corporate Affairs (MCA) has introduced condonation of delay scheme for defaulting companies who has not filed its annual return or financial statements for a period of continuous period of 3 years.

## **COMPANIES ACT**

### **CONDONATION OF DELAY SCHEME, 2018**

The MCA vide General Circular No. 16/2017 dated 29<sup>th</sup> December, 2017 has introduced a scheme of Condonation of Delay applicable on all the defaulting companies who has not filed its annual return or financial statements for a period of continuous period of 3 years. The DIN of the directors of defaulting shall be activated temporarily to file the overdue documents. The defaulting companies after filing the overdue documents, seek condonation of delay by filling application in form e-CODS with a fee of Rs. 30,000/-.

This scheme is not applicable to those companies which have been stuck off or whose names have been removed from the register of companies under Section 248(5) of the Companies



**TAX CALENDER**

**January 2018**

Mon	Tue	Wed	Thu	Fr	Sa	Su	Mon	Tue	Wed	Thu	Fr	Sa	Su	Mon	Tue	Wed	Thu	Fr	Sa	Su										
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
<b>Dis/Regulation</b>		<b>Obligation</b>																										<b>Form No.</b>		
7	Income Tax		- Due date for deposit of Tax deducted/ collected for the month of December, 2017. However, all Dividend from 2016 shall be paid to the credit of Central government on the same day where tax is paid without production of an Inco																											
			- Quarterly payment of TDS u/s 192, 194A, 194D, or 194H for the Quarter ending December 31st, 2017																											
			- Due date of Filing of GSTR-1 for July to November, 2017 (for Turnover more than Rs. 1.5 Crore)																								GSTR-1			
15	Income Tax		- Due Date for issue of TDS Certificate u/s 194-IA for TDS deduction in the month of November, 2017																								Form 16B			
			- Due date for issue of TDS Certificate for tax deducted undi																											
			- Due date of filing of quarterly statement of TCS deposited for the quarter ending December 31, 2017																								Form 27EQ			
			- Due date for furnishing of Form 24G for the month of December, 2017																								Form 24G			
			- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form 15G/15CC for																											
			- Due date for furnishing of Form 15G/15H declarations received during the quarter ending December 31st and Fo																											
15	ESI		- Due date for deposit of monthly ESI payment due date for the month of December, 2017																											
			- Due date of online payment of provident fund for the month of December, 2017																								PF Challian			
22	GST		- Due date of filing of GSR-3B and payment of Taxes for the month of December, 2017																								GSTR-3B			
			- Due date of filing of GSTR-5 A for the period July to December, 2017																											
			- Due date of filing of GSTR-5 for the period July to December, 2017																											
			- Due date of filing of TCG-01 for the period July to November, 2017																											
31	Income Tax		- Due date for filing of 3rd Quarter TDS Return (TDS Salary: Form 24G), TDS others: Form 24G, TDS Salary: Form 24G, TDS others: Form 24G, TDS Salary: Form 24G, TDS others: Form 24G,																											

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