

# NEWSLETTER

NOVEMBER 2017

J P Chawla & Co. LLP  
Chartered Accountants

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



# FINEPRINT

November 2017

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**December 30th 2017,**

## **CEO's Message**

The winter in India has finally kicked in, with economic weather stabilizing a bit after changes of GST and Demonetization.

The current political party being a part of current incumbent government has won key state elections of Gujarat and Himachal Pradesh, bringing stability and certainty in the Indian political climate.

In Direct taxes after Prime Minister Narendra Modi observations during the annual conference of tax officers in September, the government has formed a task force to draft a new direct tax law to replace the existing Income Tax Act, which is aimed at further ease of doing business.

Further, certain time lines to file Forms and Returns under GST have been extended and there is continuous updation in rates of tax under GST.

The Ministry of Corporate Affairs (MCA) and the Insolvency and Bankruptcy Board of India have brought few amendments in the existing Companies (Accounts) Rules and Insolvency Resolution Process for Corporate Persons.

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

Happy Reading!!

Sincerely Yours,

**Rajat Chawla**

**Managing Partner & CEO**  
**New Delhi**

## The Month That Was

The Goods and Services Tax (GST) Council slashed rates across the board, including for a range of daily items of consumption, relaxed penalties and tweaked rules to make it easier for businesses, especially small and medium enterprises, to comply. The feel-good package from the council, which comes into effect from 15 November, is likely to boost consumer demand, reduce disquiet over compliance costs and also lend fresh momentum to the tax reform initiative. Prime Minister Narendra Modi took to Twitter and said, "All our decisions are people-inspired, people-friendly and people-centric. We are working tirelessly for India's economic integration through GST."

Some of the other highlights of November 2017 are:-

**India Inc raises ~1.4-lakh cr via equities in 2017:** Fundraising through the equity route hit an all-time high, touching the Rs 1.4-lakh crore mark during the current calendar year (CY17). Among sectors, financials including banks, non-banking financial companies (NBFCs) and insurance firms have cornered more than half the share, or about Rs 85,000 crore, of the total fundraising thus far in CY17. The companies from the sectors such as power generation & distribution, consumer durables, metals, realty, retail and pharmaceuticals raised more than Rs 1,500 crore.

**Offshore India funds register inflow of USD 573-mn in Oct:** India-focussed offshore funds received a net inflow of USD 573 million in October, taking the total to nearly USD 5 billion in 2017, indicating that the country remains an attractive destination for overseas investors. In comparison, these funds had registered an infusion of USD 256 million in October last year. India-focussed offshore funds and Exchange Traded Funds (ETFs) are a subset of the overall foreign portfolio investor (FPI) flows.

**Cabinet approves setting up of the 15th Finance Commission:** The Union Cabinet chaired by the Prime Minister has approved the setting up of the 15th Finance Commission. Under Article 280 (1) of the Constitution, it is a Constitutional obligation. The Terms of Reference for the 15th Finance Commission will be notified in due course of time.

**Logistics Sector granted Infrastructure Status:** The Logistics Sector has been granted Infrastructure status. High logistics cost reduces the competitiveness of Indian goods both in domestic as well as export market. It will enable the Logistics Sector to avail infrastructure lending at easier terms with enhanced limits, access to larger amounts of funds as External Commercial Borrowings (ECB), access to longer tenor funds from insurance companies and pension funds and be eligible to borrow from India Infrastructure Financing Company Limited (IIFCL).

**Rolls-Royce ties up with TCS to drive growth in India operations:** Jet engine maker Rolls-Royce Holdings Plc is looking at driving growth in its India operations through a partnership with Tata Consultancy Services Ltd (TCS). The partnership with TCS will accelerate its digital transformation and innovation strategy.

**Enhancement of Merchandise Exports from India Scheme (MEIS) for two subsectors of Textiles Industry:** The Directorate General of Foreign Trade (DGFT) has issued Public Notice by which rates for incentives under the Merchandise Exports from India Scheme (MEIS) for two subsectors of Textiles Industry, that is readymade garments and made ups have been enhanced from two percent to four percent of value of exports with effect from 01.11.2017 till 30.06.2018.

## TAX

After overhauling indirect taxes and Prime Minister Narendra Modi observations during the annual conference of tax officers in September, the government has formed a task force to draft a new direct tax law to replace the existing Income Tax Act, CBDT has issued an internal note to the Senior Revenue officers to highlight taxpayers trying to build an explanation for cash deposits in their bank accounts post demonetization by manipulating books-of-accounts and by filing revised/belated income tax returns. The Delhi High Court has upheld the constitutional validity of the Income Computation and Disclosure Standards (ICDS), but only to the extent that they do not go against judicial pronouncements and the provisions of the Income-Tax (I-T) Act. Further, certain time lines to file Forms and Returns under GST have been extended and there is continuous updation in rates of tax under GST. Further in international taxation, OECD releases mutual agreement procedure (MAP) statistics for 2016 including data from over 65 jurisdictions. OECD Council approves the contents of the 2017 Update to the OECD Model Tax Convention. Qatar becomes 115th jurisdiction to join Multilateral Convention on Tax Information Exchange.

### Direct Tax Updates

**1. CBDT highlights 7 red flags to identify post-demonetisation cash deposit cover-ups:**

CBDT has listed down seven instances which might indicate that assessee had filed revised or belated return merely as a cover-up to explain the cash deposits in bank accounts post demonetisation by manipulating books-of-accounts. CBDT has issued a detailed guidance to the senior officers of the Income Tax Department on important issues to be considered while framing scrutiny assessments pertaining to the filing of revised/belated returns by assessee post-demonetisation.

**2. Government sets up a panel to draft new direct tax law:**

Government formed a task force to draft a new direct tax law in consonance with economic needs of the country; to replace the existing Income Tax Act, which has been in force since 1961. Task Force to submit the report within 6 months to the Government.

**3. Delhi HC upholds constitutional validity of ICDS, but strikes down certain provisions:**

After Hearing the petitions filed by the Chamber of Tax Consultants and others, Delhi HC upholds constitutional validity of ICDS. Court said that **“The ICDS is not meant to overrule the provisions of the (Income Tax) Act, the rules thereunder, and the judicial precedents applicable thereto as they stand”** and accordingly stroke down certain provisions of ICDS that went against judicial pronouncements and the I-T Act.

**4. CBDT: Cash purchases upto Rs. 2 lakhs of agricultural produce from cultivator not disallowable u/s. 40A(3):**

CBDT clarifies that agricultural produce paid in cash upto Rs. 2 lakh to its cultivator would not be hit by Sec. 40A(3). Further, prohibition u/s 269ST (on accepting receipts otherwise than by account payee cheque, etc.) would not be applicable in case of cultivator for sale of agricultural produce less than Rs. 2 lakhs. CBDT also clarifies that cultivators are not required to quote PAN or furnish Form 60 in such cases.

- 5. Income from licensing fully established running hotel, business income for hotel operator [Palmshore Hotels Private Limited]:**  
Kerala HC reverses ITAT order for AY 2005-06, holds license fee received by assessee (operating hotels) for giving the hotel along with furniture and fixtures on license, taxable as 'business income' and not 'income from house property'.
- 6. Acquiring master copy of software with right for modification amounts to royalty [Isys Softech Private Limited]:**  
Jaipur ITAT holds that payment made by assessee (an Indian company) to a US entity for acquiring master copy of software along with certain rights for modification, alteration, amendments or changes and then resell and export the improved modified version of the software, amounts to royalty u/s. 9(1) (vi) as well as under Article 13(2) of Indo-US DTAA.
- 7. Forward exchange contracts loss for hedging receivables is business & not speculation loss [M/s. Alliance One Industries Pvt Ltd.]:**  
ITAT Rejected revenue's contention that the loss on foreign exchange contract was speculation loss & not business loss. ITAT allowed loss on cancellation of forward exchange contracts in respect of Foreign Exchange Derivatives claimed by the assessee.
- 8. Interest u/s 201(1A) not compensatory, applicable even when deductee has Nil tax liability [Aayush NRI LEPL Health Care Pvt. Ltd]:**  
Visakhapatnam ITAT upholds levy of interest u/s 201(1A) in case of assessee failing to deduct tax at source u/s 194J and reject assessee's contention that since the deductee had filed nil return of income and had no tax liability, even after taking into account receipts from assessee, interest u/s 201(1A) was not leviable. However proviso to Sec. 201(1A) inserted w.e.f July 1, 2012 makes it very clear that even though the assessee is not deemed to be 'assessee in default' under the first proviso to Sec. 201(1), the interest u/s 201(1A) shall be payable from the date on which such tax is deductible to the date of furnishing of return of income by such deductee.
- 9. Channel placement fees and subtitling charges subject to TDS u/s 194C, not Sec. 194J:[ UTV Entertainment Television Ltd]:**  
Bombay HC dismisses Revenue's appeal, holds that carriage fees or placement fees paid by assessee (engaged in broadcasting television channels) to cable operators for placing TV channels in the prime band is subject to TDS u/s 194C and not 194J. HC holds that cable operators do not render any technical services by agreeing to place the channel in particular band or frequency.
- 10. EPF interest exemption only up to retirement date, subsequent interest till withdrawal, taxable [ Shri Dilip Ranjrekar]:**  
Bangalore ITAT rules against an individual assessee , holds that interest accrued on accumulated balance in Employee Provident Fund ('EPF') account from the date of retirement to the date withdrawal is not exempt u/s. 10(12) of the Act. Exemption u/s 10(12) is available only to a person who being an employee withdraws the accumulated fund from the PF account as on the date of retirement or termination of employment.

**11. Upholds HC order; Assessment on non-existent entity, void & not curable u/s 292B:**

SC dismisses Revenue's appeal and upholds Delhi HC judgment in Spice Entertainment Ltd. HC had held that the assessment in the hands of non-existing amalgamating company is void. HC had ruled that assessment framed in the name of non-existing entity was not merely a procedural irregularity of the nature that could be cured by invoking Sec. 292B, but was a jurisdictional defect as there cannot be any assessment against a 'dead person'

**12. CBDT: Issues draft notification u/s. 115JG (1) relating conversion of foreign banks' Indian branch into subsidiary:**

CBDT has issued draft notification u/s. 115JG(1) specifying the conditions to be fulfilled upon conversion of Indian Branch of foreign bank into Indian subsidiary company and also specifying modifications, exceptions, in applicability of certain provisions of the Act to such conversion.

## **International Taxation Updates:**

**1. OECD releases mutual agreement procedure (MAP) statistics for 2016:**

OECD releases mutual agreement procedure (MAP) statistics for 2016 including data from over 65 jurisdictions. Such reporting provides a tangible measure of the effects of the collective implementation of some elements of the Action 14 minimum standard and now includes data from over 65 jurisdictions. These MAP statistics are now available for the 2016 reporting period.

**2. OECD Council approves 2017 Update to Model Tax Convention; India introduces new 'reservations':**

OECD Council approves the contents of the 2017 Update to the OECD Model Tax Convention (the OECD Model). The 2017 Update primarily comprises of changes to the OECD Model that were approved as part of the BEPS Package or were foreseen as part of the follow-up work on the treaty-related BEPS measures. The OECD Model now includes addition of a new Article 29 (Entitlement to Benefits) and related Commentary, which includes a limitation-on-benefits (LOB) rule (simplified and detailed versions), an anti-abuse rule for permanent establishments situated in third States, and a principal purposes test (PPT) rule.

**3. UK mulls interim solutions for taxing digital economy transactions pending international consensus:**

UK HMRC releases position paper on the challenges posed by the digital economy for the corporate tax system and its preferred solutions. Report highlights the challenges of digital economy can only be sustainably addressed in the long run through international tax framework and multilateral reforms.

**4. Qatar becomes 115th jurisdiction to join Multilateral Convention on Tax Information Exchange:**

Qatar has signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters of the OECD and becomes the 115th jurisdiction to join the Convention.

## Transfer Pricing Updates:

- 1. India relaxes Article 9(2) restriction, to accept all MAP and bilateral APA applications:**  
India to accept Transfer Pricing MAP and bilateral APA applications regardless of the presence or otherwise of Paragraph 2 of Article 9 (or its relevant equivalent Article) in the DTAs.
- 2. Chennai ITAT Upholds royalty & managerial services aggregation under TNMM and Rejects Revenue's FEMA reliance:[ Siemens Gamesa Renewable Power Pvt Ltd]**  
Chennai ITAT deletes TP-adjustment in respect of assessee's royalty payment to AE for availing technology, also deletes in-principle TP-adjustment in respect of payment of management services fee to AE .ITAT rejected TPO's approach of segregating royalty payment from managerial services, ITAT opines that "where the assessee has adopted TNMM method for the purpose of benchmarking its profits, adoption of CUP method solely for the purpose of evaluating technical assistance fee would lead to absurdity and be detrimental to the interests of both the Department and the assessee.
- 3. Delhi ITAT deletes Sec. 271G penalty. Jurisdiction transfer request reasonable cause for delayed information submission [NTT Data Global Delivery Services Ltd]**  
Delhi ITAT reverses CIT(A)'s order, deletes penalty u/s 271G for failure of assessee to furnish details/documentation of international transactions within the time provided in the notice u/s 92D for AY 2009-10.Delhi ITAT states that despite a genuine request made by the assessee before the departmental authorities for transfer of jurisdiction (on account of merger with another group entity and transfer of principal place of business) and regular follow up, no action was taken nor any intimation was given to the assessee that such a transfer was not possible. Notes that the assessee had requested the TPO to keep the matter in abeyance for the reason that it had been following the transfer of its file from Delhi to Bangalore, thus holds, "instead of responding to assessee's application on transfer of jurisdiction, the assessee had been saddled with such a huge penalty of more than Rs.12.71 crores especially when all its international transactions have been found at arm's length price.
- 4. Delhi High Court dismisses Revenue's appeal and Upholds aggregation of ESPN's 'channel distribution' and 'advertisement-sale' segments [ESPN Software India Ltd]:**  
Delhi HC dismisses Revenue's appeal, confirms ITAT-order upholding aggregation of 'advertisement sale' and 'channel distribution' segments for benchmarking purpose in case of ESPN Software India. ITAT, after noting that advertisement revenue was directly co-related to channel viewership and sale of advertisement airtime increased with number of cricketing events, had held both segments to be closely linked by relying on OECD TP Guidelines and US TP Regulations.
- 5. Bangalore ITAT rules that extra credit-period is a separate international transaction and rejects reliance on Kusum HC-ruling [AMD India Private Ltd]:**

Bangalore ITAT rules that extra credit period allowed to AEs beyond the agreed credit period amounts to an independent international transaction requiring separate benchmarking. ITAT holds that "to the extent of agreed credit period, the sale price to AE or non AE is inclusive of possible interest on such agreed debt and therefore, for such credit allowed to AE, it cannot be said that this is an independent international transaction. But when extra credit is allowed beyond the agreed credit period, the same is a subsequent independent event and interest for such extra credit period cannot be factored in the price agreed.



## Goods and Service Tax Updates

### ▪ **Twelfth amendment to CGST Rules, 2017 (Notification No. 55/2017 – Central Tax)**

Central Government has amended the Central Goods and Service Tax Rules, 2017. These rules may be called the Twelfth Amendment Rules, 2017.

- (i) An explanation shall be inserted in rule 43 after sub rule (2), in respect of determination of input tax credit reversal thereof, the aggregate value of exempted supplies shall exclude the value of supply of services having place of supply in Nepal and Bhutan, against payment in Indian Rupees;
- (ii) Where the insurance or banking company or a financial Institution, including a non-banking financial company, the said supplier “may issue a tax invoice” has been substituted in place of “shall issue a tax invoice”; **(Rule 54, sub rule (2))**
- (iii) In respect of any process or procedure and reference to electronic filing of an application, intimation, reply, declaration, statement, issuance of notice, order or certificate on the common portal shall, include manual filing of the said application, intimation, reply, declaration, statement of the said notice, order or certificate in such Forms as appended to these rules; **(Insert new rule 97A, 107A of CGST Rules 2017)**
- (iv) Any person aggrieved by a decision or order passed under the CGST Act, SGST Act or UTGST Act, 2017 may appeal to- **(Rule 109A, CGSTR, 2017)**
  - (i) The Commissioner (appeal) where such decision or order passed by the Additional or Joint Commissioner;
  - (ii) The Additional Commissioner (appeal) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent within three months from the date on which such decision or order is communicated to such person;
  - (iii) The officer directed under sub-section (2) of section 170 to appeal against any decision or order passed under this Act or the SGST, UTGST Act may appeal as per the abovementioned procedure within Six months from the date of said decision or order
- (v) The Central Government with the approval of the chairperson of the council may terminate the appointment of the Chairman at any time. Provided further that the Central Government with the approval of the Chairperson of the council may terminate the appointment of the Technical Member at any time.

▪ **Furnishing of return in FORM GSTR-3B till March, 2018 (Notification No-56/2017 Central Tax)**

The Central Government on the recommendation of council hereby mandates the furnishing of return in Form GSTR-3B till the month of March 2018. The following are the due dates for filing of returns in subsequent month.

No.	Month	Last date for filing of return in FORM GSTR-3B
(1)	(2)	(3)
1	January, 2018	20th April, 2018
2.	February, 2018	20th March,
3	March, 2018	20th April, 2018

▪ **Seeks to prescribe quarterly return in FORM GSTR-1 for taxpayers with aggregate turnover of up to Rs.1.5 crore (Notification No – 57/2017- Central Tax)**

The registered persons having aggregate turnover up to 1.5 crore rupees in the preceding financial year or the current financial year, shall furnished the details of outward supply of goods or services or both return in Form GSTR-1 on quarterly basis.

The said persons shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter.

S. No.	Quarter for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
(1)	(2)	(3)
(1)	July - September, 2017	31st December, 2017
(2)	October-December, 2017	15th February, 2018
(3)	January - March, 2018	30th April, 2018

▪ **Due dates for the furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs.1.5 crores (Notification No-58/2017 – Central Tax)**

The registered taxable persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, shall be liable to file the details of Outward Supplies of Goods or Services or both in Form GSTR-1.

SI No.	Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
(1)	(2)	(3)
1	July - October, 2017	31st December, 2017
2	November, 2017	10th January, 2018
3	December, 2017	10th February, 2018
4	January, 2017	10th March, 2018

5	February, 2018	10th April, 2018
6	March, 2018	10th May, 2018

2. The filing of GSTR-2 and GSTR-3 for the month of July 2017 – March 2017 shall be subsequently notified in the official gazette.

- ***Extend the time limit for filing of GSTR-4 under Composition Scheme (Notification No.-59/2017-Central Tax)***

Every registered person who has obtained the registration under composition scheme was liable to furnish the quarterly return for the period July 2017 – September 2017 till the date of 15<sup>th</sup> November 2017; however said notification has extended such date till the 24<sup>th</sup> December 2017.

- ***Seeks to extend the time limit for furnishing the return in FORM GSTR-5, for the months of July to October, 2017 (Notification No. 60/2017-Central Tax)***

Any registered non-resident taxable person shall furnish a return in Form GSTR-5 electronically through common portal. On the recommendation of council, the due date for filing of details of outward supplies and inward supplies, tax, interest and penalty thereon for the month of July 2017, August 2017, September 2017 and October 2017 has been extended to 11<sup>th</sup> December 2017.

- ***Seeks to extend the time limit for furnishing the return in FORM GSTR-5A for the months of July to October, 2017 (Notification No. – 61/2017-Central Tax)***

*Every registered person who is providing online information and data base access or retrieval services (OIDAR) from a place outside India to a person in India other than a registered person shall file a return in Form GSTR-5A for the month of July, 2017, August, 2017, September, 2017 and October, 2017, till the 15th day of December, 2017.*

- ***Seeks to extend the time limit for furnishing the return in FORM GSTR-6 for the month of July, 2017 (Notification No. 62/2017-Central Tax)***

Every Input Service Distributor shall furnish the details of tax invoices on which credit has been received for the month of July 2017 in Form GSTR-6 till the 31<sup>st</sup> December 2017.

2. The extension of the time limit for furnishing the return for the month of August, 2017, September, 2017 and October, 2017 shall be subsequently notified in the Official Gazette.

- ***Seeks to extend the due date for submission of details in FORM GST-ITC-04 (Notification No. 63/2017 – Central Tax)***

Every registered person who has sent or received his goods through challan during the quarter to a job worker or sent from one job worker to another shall be furnished such details in Form GST ITC-04 till the 31<sup>st</sup> December 2017.

- ***Limit the maximum late fee payable for delayed filing of return in FORM GSTR-3B from October, 2017 onwards (Notification No. 64/2017- Central Tax)***

The department on recommendation of council has been revised the late fee on non – filing and delay of filing Form GSTR-3B return after due date w.e.f. 2017. Late fee for filing of GSTR-3B after due date is as follows:

- a) Rs. 50/- per day of delay
  - b) RS.20/- per day of delay for taxpayers having NIL tax liability for the month.
- ***Seeks to exempt suppliers of services through an e-commerce platform from obtaining compulsory registration (Notification No. 65/2017- Central Tax)***

The Central Government on recommendation on council hereby exempts the e-commerce operator from obtaining a compulsory registration where the aggregate turnover does not exceeds twenty lac rupees in a financial year. The total turnover shall be computed on all India basis.

However, the said notification shall not be applicable where the e-commerce operator is liable to pay tax under “**special category of services**” or an electronic commerce operator who is required to collect tax at source. ***(Refer Section 9(5) CGST Act, 2017 read with Notification No. 17/2017 – Central Tax (Rate))***

- ***Exempt all taxpayers from payment of tax on advances (Notification No. 66/2017 – Central Tax)***

Every registered person who is receiving advances against the supply of goods is exempted from payment of tax on such advances.

However, the said notification shall not be applicable where the advances received for supply of services, tax shall be levied on such transaction.

**Note: - All the above mentioned notification shall be deemed to have come in to force on 15th November, 2017**

- ***Amendment in Integrated Goods and Service Tax Rules, 2017 (Notification No. 12/2017- Integrated Tax)***

Where any advertisement services provided to Central Government, a State Government, a statutory body or local authority and where the value of such supplies is not determinable in terms of contract.

For determination of such value and recommendation of council amend the Integrated Goods and Service Tax Rules, 2017. They shall be deemed to have come into force in 1<sup>st</sup> day of July 2017.

- a) In the absence of any contract between the supplier of services and recipient of services, shall be determined in the following manner namely:-

- (i) In the case of news papers and publications, the amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in state or Union Territory, as the case may be, is the value of advertisement service attributable to the dissemination in such state or Union Territory;
  - (ii) In the case of printed material like pamphlets, leaflets, diaries, calendars, T-Shirts etc, the amount payable for the distribution of a specific number of such material in a particular state or Union territory is the value of advertisement services attributable to the dissemination in such state or union territory, as the case may be;
  - (iii) In the case of hoarding other than those on trains, the amount payable for the hoardings located in each state or Union territory, as the case may be, is the value of advertisement service attributable to the dissemination in each such State or Union territory, as the case may be;
  - (iv) In the case of advertisements placed on trains, the breakup calculated on the basis of the ratio of the length of the railway track in each state for that train of the amount payable for such advertisement is the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be;
  - (v) In the case of advertisements over radio stations the amount payable to such radio station, which by virtue of its name is part of a state or Union territory, as the case may be;
  - (vi) In the case of advertisements on televisions channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State;
  - (vii) In the case of advertisements at cinema halls at the amount payable to a cinema hall or screens in a multiplex, in a State or Union Territory, as the case may be, is the value of advertisement service attributable to dissemination in such State or Union territory;
  - (viii) In the case of advertisements on internet, the amount attributable to the value of advertisement service dissemination in a State or Union Territory shall be calculated on the basis of the internet subscribers;
  - (ix) In the case of advertisements through short messaging service the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of telecommunication subscribers;
- **Circulars and Orders**
  - **Procedure regarding procurement of supplies of goods from DTA under Deemed Export benefits (Circular No. 14/14/2017 – GST)**

To resolve the certain difficulties being faced by the exporters post GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as Deemed Exports and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies;

1) For Supplies to EOU/ EHTP/ STP/ BTP units in terms of Notification No. 48/2017 – Central Tax dated 18.10.2017, the following procedure and safeguard are prescribed-

- a) The recipient unit shall give prior intimation in prescribed Performa in “Form- A” bearing a running serial number containing the goods to be procured, as pre approved by the development commissioner;
  - b) The said intimation shall be given to (a) the registered supplier; (b) the jurisdictional GST officer in charge of such registered supplier and (c) its jurisdictional officer.
  - c) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU/ EHTP/ STP/ BTP unit;
  - d) On receipt of such supplies unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to- (a) the registered supplier; (b) the jurisdictional GST officer in charge of such registered supplier and (c) its jurisdictional officer.
  - e) The endorse tax invoice will be consider as a proof of deemed export supplies by the registered person;
  - f) The recipient unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in Form B;
  - g) A digital copy of Form B containing transactions for the month, shall be provided to the jurisdictional officer by 10<sup>th</sup> of the succeeding month
- **Due date for generation of Form GSTR-2A and GSTR-1A (Circular No. 15/15/2017-GST)**

Refer to the said circular due date for generation of GSTR-1A and GSTR-2A has been extended in accordance with the extension of due date for filing of Form GSTR-1 and GSTR-2 respectively;

The details furnished in Form GSTR-1 shall be made available electronically to the registered person in Form GSTR-2A after due date for filing of GSTR-1. On the basis of details contained in Form GSTR-2A, the recipient shall prepare and furnish the details of inward supply in Form GSTR-2 after verifying, validating, modifying or deleting the details if required.

Since the due date for filing of GSTR-1 and GSTR-2 has been extended therefore the due date for filing of GSTR-2A is also extended. Form GSTR-2A is a read only document made available to the recipient electronically so that he has a record of all the invoices received from the various suppliers during a given tax period.

The details furnished in GSTR-2 shall be made available to the concerned supplier in Form GSTR-1A. Once the details are made available electronically through the common portal to the supplier in Form GSTR-1A, the suppliers either accept or reject the modification made by the recipient.

It is hereby clarified that as the dates for furnishing the details in Form GSTR-1 and Form GSTR-2 has been extended, the due date for Form GSTR-1A is also extended. Therefore, such details of Form GSTR-1A shall be made available to the supplier from the 1<sup>st</sup> December 2017 to 6<sup>th</sup> of December 2017 for the month of July 2017.

▪ **Clarification regarding applicability of GST and availability of ITC in respect of certain services (Circular No. 16/16/2017-GST)**

The following clarifications have been issued by the department in respect of applicability of GST and availability of ITC in respect of certain services, namely:-

**a) Is GST applicable on warehousing of agriculture produce such as tea, processed coffee, beans or powder pulses, jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?**

✓ The GST rate on loading, unloading, packing, storage or warehousing of agriculture produce is NIL. Agriculture produce mean “any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market”.

✓ In view of above it is clarified that the abovementioned products falls outside the definition of agriculture produce and therefore the exemption from GST not available to their loading, packing, warehousing etc. Any clarification issued in the past to the contrary in the context of Service Tax or Vat/ Sales Tax is no more relevant in this regard.

**b) Is GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?**

- ✓ Refer to the Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons when made in the course or furtherance of business, even if without consideration, attracts GST.
- ✓ It is clarified that credit of GST paid on aircraft engines, parts and accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts and accessories by way of inter-state stock transfer between distinct person. However, the credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air economy class at GST rate of 5%.

**c) Is GST leviable on General insurance policies provided by a State Government to employees of the State Government/ Police personnel, employees of Electrical department or students of colleges/ private school etc. (a) Where premium is paid by State Government; (b) Where premium is paid by employees, students etc.?**

- ✓ It is hereby clarified that services provided to Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central, State, and Union Territory exempt from GST.

**▪ Manual filing and processing of refund claims in respect of zero rated supplies (Circular No. 17/17/2017-GST)**

Due to non –availability of the refund module on the common portal, it has been decided by the competent authority, on recommendation of council that the applications/documents/ forms pertaining to refund claims on account of zero rated supplied shall be filed and processed manually.

The following conditions and procedure are laid down for the manual filing and processing of the refund claims, namely:-

- a) A registered person may make zero rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero rated supplies of goods or services or both under bond or Letter of Undertaking without payment of integrated tax;
- b) Any order regarding withholding of such refund or its further sanction respectively in Part B of Form GST RFD-07 or Form GST RFD-06 shall be done manually till the refund module is operational on common portal;



- c) The application for refund of integrated tax paid on zero rated supply of goods to a special Economic Zone developer or a special Economic Zone unit or in case of zero rated supply of services in required to be filed in Form GST RFD-01A by the supplier on common portal and print out of the said form shall be submitted before the jurisdictional proper officer along with necessary evidences, with in the stipulated for filing of such refund under the GST Act;
- d) The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in FORM GST RFD- 01A on the common portal and the amount claimed as refund shall get debited in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN-Acknowledgement Receipt Number) which would be mentioned in the FORM GST RFD-01A submitted manually, along with the print out of FORM GST RFD-01A to the jurisdictional proper officer, and with all necessary documentary evidences as applicable;
- e) The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax.
- f) In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented.
- g) However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

### **Filing of Refund Claims**

<b>S.No</b>	<b>Category of Refund</b>	<b>Process of filing</b>
1	Refund of IGST paid on export of goods	No separate application is require as shipping bill itself will be treated as application of refund
2	Refund of IGST paid on export of services/ zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD- 01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable
3	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the FORM GST RFD- 01A needs to be submitted before the jurisdictional GST officer along with

		necessary documentary evidences, wherever applicable.
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▪ **Refund of unutilized input tax credit of GST paid on inputs in respect of exporters of fabrics (Circular No. 18/18/2017-GST)**

The restrictions of refund of unutilized input tax credit of GST paid on inputs to manufacturer exports of fabrics (falling under chapters 50 to 55 and heading 5608, 5806, 5806) under GST.

Any person may claim refund of any *unutilized input tax credit* at the end of any tax period.

Provided that no refund of unutilized input tax credit shall be allowed in cases other than-

(i) Zero rated supplies made without payment of tax;

(ii) Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies, except supplies of goods or services or both as may be notified by the Government on the recommendation of council.

A manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

▪ **Clarification on taxability of Custom milling of paddy (Circular No. 19/19/2017-GST)**

The department issued the Circulars in respect of taxability of custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted.

1) An intermediate production process as job work in relation to cultivation of plants and rearing of all forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agriculture produce is exempted;

2) Agriculture produce has been defined in the Notification to mean, any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing horses, for food, fibre fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is done usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

3) Job work has been defined under section 2(68) of CGST Act to mean any treatment or process undertaken by a person on goods belonging to another registered person's goods is a supply of service;

4) Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce;

- 5) In view of above, it is clarified that milling of paddy into rice is not eligible for exemption. GST rates falling under Chapters 1 to 22 has been reduced from 18% to 5%;
- 6) Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5% on processing charges.

▪ **Clarification and GST Rate on Terracotta idols (Circular No. 20/20/2017-GST)**

While the GST rate on Idols made of clay is NIL under GST. In this reference department issued the clarification in respect of taxability of GST on terracotta.

According to the circular terracotta is clay based, therefore terracotta idols will be eligible for NIL rate.

▪ **Clarify on Inter-state movement of rigs, tools and spares and all goods (Circular 21/21/2017-GST)**

Where any Inter-state movement of goods like rigs, tools and spares and all goods on wheels [like car] between distinct person, such movement shall be treated neither as a supply of goods or supply of services and consequently no IGST would be leviable on such movements except where such movement is for further supply of same goods.

Where any repair & maintenance done on such goods then IGST/CGST/SGST may be applicable thereon.

▪ **Extend the due date for submitting Form GST TRAN-1 (Order No. 09/2017 & 10/2017- GST)**

As per Order No. 09/2017 & 10/2017 – GST hereby extend the due date for filing of Form GST TRAN-1 as well as revised Form GST TRAN-1 till the date of 27<sup>th</sup> December 2017.

**Rates:**

▪ **Exempted Goods (Notification No. 42/2017- Central Tax (Rate))**

As per Notification No. 42/2017- Central Tax (Rate), hereby exempt the certain goods from tax under GST.

S.No	Chapter/ Heading	Descriptions of Goods
"8	0203, 0204, 0205, 0206, 0207, 0208, 0209	All Goods, fresh or chilled
9	0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All Goods [other than fresh or chilled] other than those put up in the unit container
21"	0304, 0305, 0306, 0308	All Goods fresh or chilled
22	030, 0304, 0305, 0306, 0307, 0308	All Goods [other than fresh or chilled] other than those put up in the unit container
"30A	0504	All Goods fresh or chilled
30B	0504	All Goods [other than fresh or chilled] other than those put up in the unit container
"43A	0710	Vegetables, frozen other than those put up in unit container
"46A	0714	Manioc, arrowroot, salep, Jerusalem

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		artichokes, sweet potatoes and similar roots and tubers with high starch or insulin content, frozen, whether or not sliced or in the form of pellets other than those put up in a container and, -
46B	08	Dried makhana, whether or not shelled and peeled [other than those put up in a container and,-

**Goods under Reverse Charge (Notification No. 43/2017-Central Tax-Rate)**

As per Notification No. 43/2017- Central Tax (Rate) dated 15.11.2017 hereby amends the notification where tax on specified Goods shall be paid by recipient of such goods.

S.No	Tariff item, Sub heading, or Chapter	Descriptions of Supply of Goods	Supplier of Goods	Recipient of Supply
"4A	5201	Raw Cotton	Agriculturist	Any registered person".

▪ **Inserted Certain items in respect of non- refundable of Input Tax Credit ( Notification No. 44/2017 – Central Tax)**

On recommendation of council hereby insert the certain fabrics items under Notification No. 05/2017 – Central Tax (Rate) in respect of which no refund of input tax credit shall be allowed.

S.No	Heading/ Chapter	Descriptions of Goods
"6A	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B	5801	Corduory Fabrics
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)"

▪ **Concessional GST rate of 2.5% on supply of Scientific and Technical Equipments Notification No. 45/2017 – Central Tax)**

As per Notification No. - 45/2017 – Central Tax (Rate) dated 14<sup>th</sup> November 2017 hereby provide a concessional rate of 2.5% where Scientific and Technical equipments supplied to public funded research institutions.

▪ **Revised GST rate for "Restaurants Services" and job work on "handicraft goods" (Notification No. 46/2017-Central Tax (Rate))**

With reference to the Notification No. 46/2017- Central Tax (Rate) dated 14.11.2017 hereby revised the rate of central goods and service tax in case of intra state supply of services and inter-state supply of services, namely:

Description of Service	Condition	IGST (Rate)	ST (Rate)
Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess,	provided that credit of input tax charged on goods and services	5%	2.5%

canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes	used in supplying the service has not been taken		
) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent. Explanation.- "declared tariff" includes charges for all	provided that credit of input tax charged on goods and services used in supplying the service has been taken	18%	9%
Service by way of Job Work in relation to, Manufacturing of handicraft goods shall be inserted		5%	2.5%

▪ **Extend exemption to admission to "protected monument" (Notification No. 47/2017-Central Tax-Rate)**

Central Government on the recommendation of council hereby makes the following amendments in the exemptions on Intra-State and Inter-State supply of services under, namely:

- a) Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oils, etc. under Public distribution System against consideration in the form of commission or margins;
- b) Services by way of admission to a protect monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Act for the time being in force.

**Note: - Please note that above mentioned Notification No.-41/2017 Central Tax (Rate) to 47/2017-Central Tax shall also be applicable (Notification No. 43/2017-Integrated Tax (Rate) to 50/2017) in case of Integrated Supply of Goods or Services or both subject to the conditions specified there in.**

## Assurance & Accounting

In Assurance and Accounting area there has been new guidance on the role of internal auditor and proposed new definition has been issued, QRB has issued report 2016-2017

- **Proposed Revised Definition of Internal Audit**

“Internal audit provides independent assurance on effectiveness of internal controls, risk management processes and contributes to enhancing governance for achieving organizational objectives.”

**Explanation of terms used in above definition**

Independence: Internal audit should be an independent function, achieved through the position, organization structure and reporting of the internal auditor.

Internal controls and risk management are an integral part of management function and business operations. An internal auditor is expected to evaluate the design and operating effectiveness of internal controls and risk management processes (including reporting processes) as designed and implemented by the management.

Governance is a set of relationships between the company and its various stakeholders and provides the structure through which the company's objectives are set, and the constant performance monitoring required to help attain them.

Organizational objectives incorporate the interests of all stakeholders and includes compliance with internal policies and procedures and laws and regulations.

Advisory role: At certain times, in addition to providing assurance, the internal auditor may adopt an advisory role to help an organization achieve its objectives, provided this does not compromise the independence of the internal auditor.

- **Audit Quality Review Report 2016-17 issues report on audit quality review**

The Audit Quality Review board has presented audit quality review report for 74 cases under review, which have completed till June 2017, out of 74 reviews, 69 pertained to financial statements for year ended 31 March 2014 or year 2013 as the case maybe and 5 reports pertain to financial statements related to year ended 31 March 2015 or the year 2014 as the case may be. The detailed findings of the report can be accessed at <http://www.grbca.in/wp-content/uploads/2017/11/qrb37506.pdf>.

**J P Chawla & Co. LLP**  
Chartered Accountants

**REGULATIONS**

The Ministry of Corporate Affairs (MCA) and the Insolvency and Bankruptcy Board of India have brought few amendments in the existing Companies (Accounts) Rules and Insolvency Resolution Process for Corporate Persons.

## **COMPANIES ACT**

### **COMPANIES (ACCOUNTS) AMENDMENT RULES, 2017**

The MCA has amended Companies (Accounts) Rules, 2014 and has notified Companies (Accounts) Amendment Rules, 2017 with effect from November 7, 2017, whereby amendment has been made by substituting the e-form AOC-4 in annexure of the Companies (Accounts) Rules, 2014.

## **OTHER ACTS & REGULATIONS**

### **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) (THIRD AMENDMENT) REGULATIONS, 2017**

The Insolvency and Bankruptcy Board of India had made the amendment to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by inserting sub regulation (3) which specifies that the resolution plan shall contain few specified details of the resolution applicant and other connected persons to enable the committee to assess the credibility of such applicant and other connected persons to take a prudent decision while considering the resolution plan for its approval.



TAX CALENDER

January 2018

Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed								
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	
<u>Date</u>		<u>Regulation</u>		<u>Obligation</u>																										<u>Form No.</u>	
7	Income Tax		- Monthly TDS Payment, Monthly TDS Payment																							Challan TNS 281					
			- Quarterly payment of TDS v/s 192, 194A, 194D or 194H for the Quarter ending December 31st, 2017																												
10	GST		- GSTR 1 for July to November, 2017																							GSTR 1					
15	Income Tax		- 3rd Quarter TDS Return filing																							Form 27EQ					
			- Due date for furnishing of Form 24G for the month of December, 2017																							Form 24G					
			- Online Submission of Form 15H and 15G to ITD for 3rd Quarter of FY 2017-2018																							Form 15H & 15G					
			- Due date for issue of TDS Certificate v/s 194-1A for TDS deduction in the month of November, 2017																							Form 16B					
15	Provident fund		- Monthly PF Payment due date for December 2017																												
18	GST		- GSTR 4 for Oct-Dec, 2017																							GSTR 4					
20	GST		- GSTR 3B for December 2017																							GSTR 3B					
21	ESI		- Monthly ESI Payment due date for December 2017																												
31	Income Tax		- 3rd Quarter TDS Return filing [TDS Salary: Form 24Q, TDS others: Form 26Q, TDS Non Resident: Form 27Q,																							24Q, 26Q & 27Q					

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