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TAX EDGE

Monthly Tax & Regulatory Updates

October 2018

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Accounting | Taxation | Regulatory

Contents

Goods & Services Tax (GST)

Goods & Services Tax

Extension in time limit for filling Goods and Services Tax Return (GSTR-3B) for the month of September 2018

The Central Government has extended the time limit for furnishing GSTR-3B for the month of September 2018 to 25th October, 2018. Earlier to this notification due date of GSTR-3B was 20th October, 2018

Please Click Here to read copy of Notification No. 55/2018 – Central Tax dated October 21st, 2018.

Amendment in rules regarding refund of Integrated Goods and Services Tax (IGST) paid on goods or services exported out of India

The Central Government has notified that the persons claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the following benefits of the Government of India has been availed except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods (EPCG) Scheme by the respective counter-party suppliers (who have supplied to persons claiming refund):

- Notification No. 48/2017-CentralTax, dated the 18th October, 2017: It covers domestic supplies made against advance authorization, supply of capital goods against EPCG authorization, supply of goods to Export Oriented Unit (EOU) & supply of gold by a bank or Public Sector Undertaking (PSU) against advance authorization

- Notification No. 40/2017-Central Tax (Rate), dated the 23rd October or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017: This notification covers supplies made to merchant exporter at the rate of 0.1% in case of IGST or 0.05% each in case of Central Goods and Services Tax (CGST) & State Goods and Services Tax (SGST)

- Notification No. 78/2017-Customs dated the 13th October, 2017: This notification provides exemption from Customs Duty & IGST under Customs on goods imported or procured from Public or Private Warehouse or from International Exhibition by Hundred per cent EOU, Software Technology Park (STP) or Electronic Hardware and Technology Park (EHTP) units

- Notification No. 79/2017- Customs, dated the 13th October, 2017: This notification provides exemption from Customs Duty & IGST under Customs on imports under EPCG, Advance Authorization, Advance Authorization for Annual Requirements, Advance Authorization for Deemed Export, Advance Authorization for export of Prohibited Goods and Narrow Woven Fabrics

Please Click Here to read copy of Notification No. 54/2018 – Central Tax dated October 9th, 2018

Goods & Services Tax

Supreme Court (SC) decision on constitutional validity of GST (Compensation to States) Act, 2017 and denial of utilization of Clean Energy Cess against Compensation Cess

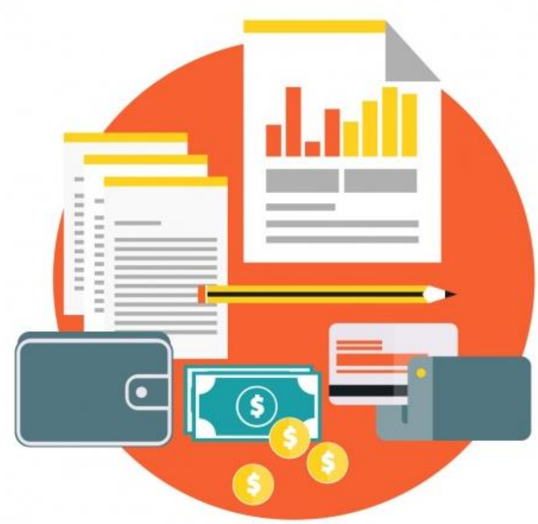
In the recent ruling dated 3 October 2018, the Supreme Court has upheld constitutional validity of the Goods and Services Tax (Compensation to States) Act, 2017. As laid down by the Court, the levy of Compensation Cess is an increment to GST which is legally permissible. Further, the Court has held that the assessee is not entitled for any set off of payment made towards Clean Energy Cess in payment of Compensation Cess. Consequent to the said judgment, assessees would have to face additional liability of compensation cess in respect of stock transitioned to GST regime.

Please Click Here to read copy of Supreme Court judgment dated October 3rd, 2018.

Entitlement of UN and other similar organizations to refund of Compensation Cess paid on intra-State and inter-State supply of goods or services

The Ministry of Finance has clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the Central Goods & Services Act ('CGST') Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

Please Click Here to read Circular No. 68/42/2018-GSTdated October 5th, 2018.



Customs

Customs

IGST refunds not granted due to claiming higher rate of drawback or where higher rate and lower rate were identical – Clarification issued by Government

The Government has notified vide Notification No. 73/2017-Customs (N.T.) dated 26th July, 2017, that in cases of export of commodity or product on payment of integrated goods and services tax, if exporter declares that no refund of Integrated goods and services Tax paid on export product shall be claimed, then he may claim drawback at the rate specified therein. Exporter is required to make declaration by the way of shipping bills as and when such drawback is to be claimed.

The Government has received numerous representations from exporters/ export associations, regarding cases where IGST refunds has not been granted because higher rate of drawback has been claimed or where higher rate and lower rate are identical. The issue has been examined extensively by Ministry and It has been clarified that exporters are availing the option to take drawback at higher rate in place of IGST refund out of their own volition. Considering the fact that exporters have made declaration in the shipping bill while claiming the higher rate of drawback, it has been decided that it would not be justified allowing exporters to avail IGST refund after initially claiming the benefit of higher drawback as by making drawback declaration in the shipping bill, the exporter consciously relinquished their IGST / ITC claims.

Please Click Here to read copy of Circular No. 37/2018 – Customs dated October 9th, 2018

Direct Tax

Direct Tax

Extension of due date for filing Income-tax Return & Tax Audit Report for Assessment Year ('AY') 2018-19 till 31 October 2018

On 24th September 2018, Central Board of Direct Taxes ('CBDT') has extended due date for filing Income-tax Return and Tax Audit Report from 30 September 2018 to 15th October 2018 for all assessees liable to file tax return for AY 2018-19 by 30 September 2018. Subsequently, on 8th October 2018, Government has again extended the said due date from 15th October 2018 to 31 October 2018. Liability to pay interest u/s 234A for delay in filing of tax-return will however persist if applicable.

Please Click Here to read the Press Release dated October 8th, 2018.

Press Release by CBDT – Direct Tax Collections for half-fiscal year ended 30 September 2018 is 16.7% higher than gross collections for corresponding period of last year

The provisional figures of direct tax collections up to September 2018 (half-yearly) show that gross collections are at Rs. 5.47 lakh crore which is 16.7% higher than the gross collections for the corresponding period of last year. Gross collections of the corresponding period of last year also included extraordinary collections under the Income Declaration Scheme (IDS), 2016 amounting to Rs.10,254 crore (Third and last instalment of IDS), which does not form part of the current year's collection.

Refunds amounting to Rs.1.03 lakh crore have been issued during April, 2018 to September, 2018, which is 30.4% higher than refunds issued during the same period in the preceding year. Net collections (after adjusting for refunds) have increased by 14% to Rs. 4.44 lakh crore during April, 2018 to September, 2018. The net direct tax collections represent 38.6% of the total budget estimates of Direct Taxes for Financial Year 2018-19 (Rs.11.50 lakh crore).

The growth rate for Corporate Income Tax (CIT) is 19.5% while that for Personal Income Tax (PIT) (including STT) is 19.1%. After adjustment of refunds, the net growth in CIT collections is 18.7% and that in PIT collections is 14.9%.

An amount of Rs.2.10 lakh crore has been collected as Advance Tax, which is 18.7% higher than the Advance Tax collections during the corresponding period of last year. The growth rate of Corporate Advance Tax is 16.4% and that of PIT Advance Tax is 30.3%.

Please Click Here to read the press release dated October 4th, 2018.

Direct Tax

Release of Direct Tax Statistics by CBDT in Public Domain

Continuing the practice of placing key statistics relating to direct tax collections and administration in public domain, the CBDT has further released time-series data as updated up to Financial Year 2017-18 and income distribution data for AY 2016-17 and AY 2017-18.

Purpose of Release in Public Domain:

The availability of the time-series data and the income-distribution data of fairly long periods in the public domain is useful for academicians, scholars, researchers, economists and the public at large in studying long-term trends of various indices of the effectiveness and efficiency of direct tax administration in India.

Key Highlights of the Statistics:

i. There is a constant growth in direct tax-GDP ratio over last three years and the ratio of **5.98%** in FY 2017-18 is the best DT-GDP ratio in last 10 years.

ii. There is a growth of more than **80%** in the number of returns filed in the last four financial years from 3.79 crore in FY 2013-14 (base year) to 6.85 crore in FY 2017-18.

iii. The number of persons filing return of income has also increased by about **65%** during this period from 3.31 crore in FY 2013-14 to 5.44 crore in FY 2017-18.

There has been continuous increase in the amount of income declared in the returns filed by all categories of taxpayers over the last three AYs. For AY 2014-15, the return filers had declared gross total income of Rs.26.92 lakh crore, which has increased by 67% to Rs.44.88 lakh crore for AY 2017-18, showing higher level of compliance resulting from various legislative and administrative measures taken by the Government, including effective enforcement measures against tax evasion.

The total number of taxpayers (including corporates, firms, HUFs, etc.) showing income of above Rs. 1 crore has also registered sharp increase over the three-year horizon. While 88,649 taxpayers disclosed income above Rs. 1 crore in AY 2014-15, the figure was 1,40,139 for AY 2017-18 (growth of about 60%). Similarly, the number of individual taxpayers disclosing income above Rs.1 crore increased during the period under reference from 48,416 to 81,344, which translates into a growth of 68%.

The average tax paid by corporate taxpayers has increased from Rs.32.28 lakh in AY 2014-15 to Rs.49.95 lakh in AY 2017-18 (growth of 55%). There is also an increase of 26% in the average tax paid by individual taxpayers from Rs.46,377/- in AY 2014-15 to Rs.58,576/- in AY 2017-18.

During the three-year period under reference, the number of salaried taxpayers has increased from 1.70 crore for AY 2014-15 to 2.33 crore for AY 2017-18 (up by 37%). The average income declared by the salaried taxpayers has gone up by 19% from Rs.5.76 lakh to Rs.6.84 lakh.

During the same period, there has also been a growth of 19% in the number of non-salaried individual taxpayers from 1.95 crore to 2.33 crore and the average non-salary income declared has increased by 27% from Rs. 4.11 lakh in AY 2014-15 to Rs. 5.23 lakh in AY 2017-18.

Please Click Here to read the press release dated October 22nd, 2018.

Direct Tax

CBDT issues notification for granting benefit of 10% Long Term Capital Gain (LTCG) for non-STT based shares acquisitions

Background:
LTCG on sale of listed equity shares / equity oriented MFs on which STT is paid ('Specified Assets'), which were till now exempt u/s 10(38) of the Income-tax Act, are now taxed u/s 112A at 10%, if LTCG exceeds Rs.1 Lakh. Section 112A is applicable from AY 2019-20 onwards.

Section 112A (iii) lays down that the concessional rate of 10% shall apply only where STT has been paid on acquisition of such Specified Assets. Further, section 112A(4) empowers the Central Government to specify the nature of acquisitions of equity shares, where the LTCG on sale of such listed equity shares shall be eligible for the concessional rate of 10% even though STT has not been paid at the time of their acquisitions.

Synopsis of the Notification:
The Central Government has issued Notification No. 60/2018 dated 1 October 2018, salient features given below:

1. The notification is similar to notification dated 5 June 2017 issued u/s 10(38) identifying non-STT based acquisition of equity shares that were eligible for exemption under that section.

2. As per Notification No. 60, following acquisitions of equity shares, though not subject to STT, shall be eligible for 10% tax rate u/s. 112A:

   a) Acquisition of shares prior to 1 October 2004;

   b) Acquisition of shares on or after 1 October 2004, which are not chargeable to STT, except in the following cases:

      i. In case of acquisition through preferential issue of existing listed equity shares of a company whose equity shares are not frequently traded in the recognised stock exchanges

      ii. In case where the transaction of acquisition of existing listed equity share in a company is not entered through a recognized stock exchange in India.

      iii. In case of acquisition of equity share of a company during the period beginning from the date on which the company is delisted from the recognized stock exchange and ending on the date immediately preceding the date on which the company is again listed.

3. For the ineligible transactions identified in clauses (i) and (ii) above, further exceptions have been provided in the Notification, such as acquisition under a scheme approved by Securities & Exchange Board of India ('SEBI'), Supreme Court, High Court or National Company Law Tribunal ('NCLT'), acquisition by a non-resident / venture capital funds under specified schemes, acquisition under Employees' Stock Option Schemes, acquisition under slump sale as per section 50B of Income-tax Act, etc.

Please [Click Here] to read the notification dated October 1st, 2018.

Company Law

Company Law

Constitution of National Financial Reporting Authority ('NFRA') with effect from 1 October 2018

The Government, through a notification dated 1 October 2018, has approved constitution of NFRA to provide for matters relating to accounting and auditing standards under the Companies Act.

The head office of NFRA shall be at New Delhi.

Please Click Here to read the notification dated October 3rd, 2018.

Amendment to General Instructions for preparation of Balance Sheet and Statement of profit and Loss of a Company and Indian Accounting Standards (Ind AS) compliant NBFC as per Schedule III

The Government, through a notification dated 11 October 2018, has amended the general instructions for preparation of balance sheet and statement of profit & loss of a company and has prescribed general instructions for preparation of financial statements of a Non-Banking Financial Company (NBFC), which is required to comply with the Indian Accounting Standards (Ind AS).

Please Click Here to read the notification dated October 11th, 2018

Reserve Bank of India (RBI)

Reserve Bank of India (RBI)

Ease of rules for public oil marketing companies to borrow overseas: Liberalization of External Commercial Borrowings (‘ECB’) Policy

With the rupee continuing to touch new lows, the Reserve Bank allowed forex borrowings for working capital by oil marketing companies--the largest consumers of foreign currency--under the automatic route.

All the state-run oil marketing companies (OMCs) will now be able to raise external commercial borrowings (ECBs) for working capital purposes with a minimum average maturity of three to five years from all recognised lenders under the automatic route.

The individual limit of USD 750 million or equivalent and mandatory hedging requirements as per the ECB framework have also been waived for borrowings under this dispensation. However, OMCs should have a Board approved forex mark to market procedure and prudent risk management policy, for such ECBs.

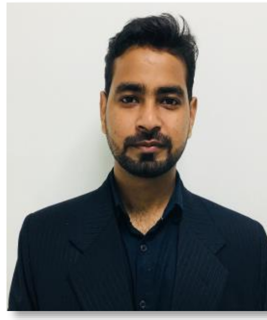
The overall ceiling for such ECBs shall be USD 10 billion equivalent and the said facility will come into effect from the date of this Circular.

Please Click Here to read the circular dated October 3rd, 2018.

Editorial Team

Editor

Direct Tax



Indirect Tax

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Contact Us

India Head Office

1159 & 1170A, 11th Floor, Tower B1
Spaze i-Tech Park
Sector 49, Sohna Road
Gurugram – 122001 (India)
T +91 (124) 4309418; 4003418

Japan Office

2-11-2 O-toekkusukudou
Bld. 4F/5F Nihombashi
Kakigaracho, Chuo-ku, Tokyo,
103-0014, Japan

Mumbai • Pune • Chennai • Bengaluru • Hyderabad • Kolkata

For any assistance, please write to us at:
communications@krayman.com