

NOVEMBER'17 INDIRECT TAX LAW REPORT

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GST SPECIAL

Powers and Functions of National Anti-Profiteering Authority (NAA) **under GST-**

The Union Cabinet gave the approval for the creation of the posts of Chairman and Technical Members of the National Anti-Profiteering Authority (NAA) under the GST. The NAA would be headed by a senior officer of the rank of Secretary to the Government of India, and would be assisted by four Technical Members from the Centre and/ or the States.

The “anti-profiteering” measures enshrined in the GST law provide an institutional mechanism to ensure that full benefits of input tax credits and reduced GST rates on supply of goods or services flow to the consumers. This institutional framework would now comprise the NAA, a Standing Committee, Screening Committees in every State and the Directorate General of Safeguards (DGS) in the Central Board of Excise and Customs (CBEC).

The NAA is envisaged as an interim body that will function only for two years from the date on which the Chairman assumes the charge. The five-member NAA will have power to ask those not passing on the tax benefit to return the undue profit earned to consumers along with an 18% interest, reduce prices and if the consumer is not identifiable, deposit the amount in a Consumer Welfare Fund. In grave cases of abuse, NAA can impose a penalty and even cancel GST registration.

The NAA is an assurance to consumers of India. If any consumer feels that the benefit of tax rate cut is not being passed on, then he can complain to the authority. All the complaints of profiteering will first go to these bodies, those of local nature to the screening committee and national level to the standing committee. If these two bodies find merit in the complaints, they can refer them for further investigation to the DGS. The DGS would need to submit the report within three months to complete the investigation and send the report to the anti-profiteering authority. The authority will decide on the methodology to

evaluate if the benefits of lower taxes under GST including those arising due to the seamless input tax credit have not been passed to the consumer.

GST NOTIFICATIONS

CENTRAL TAX NOTIFICATIONS

Notification No.	Date of Issue	Subject
1. Notification No.- 65/2017-CT	15-11-2017	<p style="text-align: center;">Exemption to the suppliers of services through an e-commerce platform from obtaining compulsory registration</p> <p>The Central Government specifies the persons making supplies of services through an e-commerce operator who is required to collect tax at source and having an aggregate turnover to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a F.Y., as the category of persons exempted from obtaining registration under the Act.</p> <p>The aggregate value of supplies in case of “special category States” shall not exceed an amount of ten lakh rupees.</p>
2. Notification No.- 64/2017-CT	15-11-2017	<p style="text-align: center;">Waiving the late fee payable for delayed filing of return in Form GSTR-3B</p> <p>The Central Government waives the amount of late fee payable by any registered person for failure to furnish the return in Form GSTR-3B for the month of October, 2017 onwards by the due date which is in excess of amount of twenty five rupees for every day during which such failure continues.</p>

3. Notification No.- 63/2017-CT	15-11-2017	<p>Extension of due date for submission of details in Form GST-ITC 04</p> <p>The Central Government makes the amendment in the Notification No. 53/2017-CT and extended the due date for submitting the details in Form GST-ITC 04 till 31st December, 2017.</p>
4. Notification No.- 62/2017-CT	15-11-2017	<p>Extension of time limit for furnishing the return by an Input Service Distributor in Form GSTR-6</p> <p>The Central Government extends the time limit for furnishing the return by an Input Service Distributor in Form GSTR-6 for the month of July, 2017 till 31st December, 2017.</p>
5. Notification No.- 61/2017-CT	15-11-2017	<p>Extension of time limit for furnishing the return in Form GSTR-5A</p> <p>The Commissioner extends the time limit for furnishing the return in Form GSTR- 5A for the month of July, 2017, August, 2017, September, 2017 and October, 2017 by a person supplying online information and database access or retrieval services from a place outside India to a non- taxable online recipient till 15th December, 2017.</p>
6. Notification No.- 60/2017-CT	15-11-2017	<p>Extension of time limit for furnishing the return by Non-resident taxable person in Form GSTR-5</p> <p>The Commissioner extends the time limit for furnishing the return by Non-resident taxable person in Form GSTR- 5 for the month of July, 2017, August, 2017, September, 2017 and October, 2017 till 11th December, 2017.</p>

7. Notification No.- 59/2017-CT	15-11-2017	<p>Extension of time limit for filing of Form GSTR-4</p> <p>The Central Government extends the time limit for filing the quarterly return for registered persons opting for composition levy in Form GSTR- 4 for the month of July, 2017, August, 2017, September, 2017 and October, 2017 till 24th December, 2017.</p>														
8. Notification No.- 58/2017-CT	15-11-2017	<p>Extension of due dates for filing of Form GSTR-1 for those taxpayers with an aggregate turnover of more than Rs. 1.5 crores</p> <table border="1" data-bbox="667 695 1520 1255"> <thead> <tr> <th data-bbox="667 695 1094 884">Months for which the details in Form GSTR-1 are furnished</th> <th data-bbox="1094 695 1520 884">Time period for furnishing the details in Form GSTR-1</th> </tr> </thead> <tbody> <tr> <td data-bbox="667 884 1094 951">July-October, 2017</td> <td data-bbox="1094 884 1520 951">31st December, 2017</td> </tr> <tr> <td data-bbox="667 951 1094 1018">November, 2017</td> <td data-bbox="1094 951 1520 1018">10th January, 2018</td> </tr> <tr> <td data-bbox="667 1018 1094 1085">December, 2017</td> <td data-bbox="1094 1018 1520 1085">10th February, 2018</td> </tr> <tr> <td data-bbox="667 1085 1094 1152">January, 2018</td> <td data-bbox="1094 1085 1520 1152">10th March, 2018</td> </tr> <tr> <td data-bbox="667 1152 1094 1220">February, 2018</td> <td data-bbox="1094 1152 1520 1220">10th April, 2018</td> </tr> <tr> <td data-bbox="667 1220 1094 1287">March, 2018</td> <td data-bbox="1094 1220 1520 1287">10th May, 2018</td> </tr> </tbody> </table>	Months for which the details in Form GSTR-1 are furnished	Time period for furnishing the details in Form GSTR-1	July-October, 2017	31 st December, 2017	November, 2017	10 th January, 2018	December, 2017	10 th February, 2018	January, 2018	10 th March, 2018	February, 2018	10 th April, 2018	March, 2018	10 th May, 2018
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9. Notification No.- 57/2017-CT	15-11-2017	<p>Quarterly furnishing of Form GSTR-1 for those taxpayers with an aggregate turnover of upto Rs. 1.5 crores</p> <table border="1" data-bbox="667 1507 1520 1850"> <thead> <tr> <th data-bbox="667 1507 1094 1654">Quarter for which the details in Form GSTR-1 are furnished</th> <th data-bbox="1094 1507 1520 1654">Time period for furnishing the details in Form GSTR-1</th> </tr> </thead> <tbody> <tr> <td data-bbox="667 1654 1094 1722">July- Sep, 2017</td> <td data-bbox="1094 1654 1520 1722">31st December, 2017</td> </tr> <tr> <td data-bbox="667 1722 1094 1789">Oct- Dec, 2017</td> <td data-bbox="1094 1722 1520 1789">15th February, 2018</td> </tr> <tr> <td data-bbox="667 1789 1094 1850">Jan-March, 2018</td> <td data-bbox="1094 1789 1520 1850">30th April, 2018</td> </tr> </tbody> </table>	Quarter for which the details in Form GSTR-1 are furnished	Time period for furnishing the details in Form GSTR-1	July- Sep, 2017	31 st December, 2017	Oct- Dec, 2017	15 th February, 2018	Jan-March, 2018	30 th April, 2018						
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SERVICE TAX JUDGMENTS

- 1. Refund** – The very initiation of proceedings by issuance of SCN has been held to be bad in law, therefore, when adjudication itself was set aside, assessee is entitled to refund. **2017-TIOL-2387-HC-MAD-ST.**
- 2. Contract price-** Value of all goods supplied free or otherwise should be included to arrive at the gross value of works contract. **2017-TIOL-3931-CESTAT-MUM.**
- 3. Rent-a-cab service and travel agent service** is used by employees for travelling and meeting customers which is core activity for fetching business for appellant, CENVAT Credit is admissible. **2017-TIOL-3867-CESTAT-MUM.**
- 4. Information technology services-** Share of IT cost allocated is paid by appellant to M/S BC Components International BV, Netherland according to Finance Act, 1994 it clearly shows that there is a relation of service provider and recipient and therefore, appellants are liable to pay service tax on reverse charge mechanism. **2017-TIOL-3884-CESTAT-MUM.**
- 5. Rule 6(3A) of CENVAT Credit Rules, 2004** only provides procedure for application of Rule 6(3) and does not mandate that on failure to intimate in writing for availing option the manufacturer or the service provider shall lose their choice to avail option under Rule 6(3)(ii) for reversing proportionate credit. **2017-TIOL-3839-CESTAT-MUM.**
- 6. Exports-** Commission amount was received by the appellant in INR from Indian entities who discharged their contractual payments to overseas

entities after deducting commission payable-services are exports. **2017-TIOL-3768-CESTAT-MUM.**

7. Refund- Renting of airport premises by duty free shop at departure module has a direct nexus with 'export sale', refund is correctly granted. **2017-TIOL-3744-CESTAT-MUM.**

8. Education services- Preparation of examination results on computers-as service is rendered in relation to education, same is exempted by Notification No. 14/2004-ST. **2017-TIOL-3725-CESTAT-DEL.**

CENTRAL EXCISE JUDGMENTS

1. Assessable value- It is a matter of common sense that plastic bottle becomes complete only with addition of cap - value of bought out item i.e. cap supplied along with plastic jars is includible in AV: CESTAT. **2017-TIOL-4023-CESTAT-DEL.**

2. Transaction value- Duty was discharged on TV which was charged to ultimate customer -no cause to include cost incurred on account of packing material used for packing from bulk pack to retail pack at job-worker's end and job work charges. **2017-TIOL-4006-CESTAT-MUM.**

3. Clandestine removal- Revenue was required to prove their case by cogent and positive evidence; it had to prove receipt of raw materials and unaccounted production which they failed to do. Hence, confiscation of goods ordered. **2017-TIOL-2342-HC-MUM-CX.**

- 4. Excisability of goods-** It is a settled law to hold the product as excisable/ dutiable, actual marketing/ sale of goods is not necessary. **2017-TIOL-389-SC-CX-LB.**
- 5. Job work-** When the sale price of very same goods is available and the same has been accepted for discharging the excise duty, there is no need to adopt the value which is arrived on the basis of valuation rules u/s 4(1) (b) of the Central Excise Act, 1944. **2017-TIOL-3859-CESTAT-MUM.**
- 6. CENVAT Credit-** Appellants exhausted CENVAT Credit while exporting goods under claim of rebate in violation of Notification No.37/2007-CX (NT). No refund permissible of duty paid in cash under Notification No. 39/200. **2017-TIOL-3880-CESTAT-MUM.**
- 7. Petitioner's challenge to vires of S.4A of Central Excise Act, 1944 fails-** It is clear that the excise duty on the doctors' free samples can be levied only u/s 4 of the Central Excise Act and not u/s 4A. [Valuation of excisable goods with reference to retail sale price.] Free samples provided to the doctors do not carry any retail sale price. **2017-TIOL-2270-HC-AHM-CX.**
- 8. Registration-** Separation of both the premises by only one plot is not significant, grant of common registration cannot be rejected on the ground that both the premises are interlinked by pipeline for supply and use of furnace oil by both the units. **2017-TIOL-3836-CESTAT-MUM.**
- 9. Erroneous availment of CENVAT Credit-** Exporter cannot, on his own, devise new method to avail the credit which is not prescribed under law. **2017-TIOL-3829-CESTAT-MUM.**

- 10. Law-** The written law takes precedence over the circulars issued by the CBEC, letters issued by Audit Party of Revenue. **2017-TIOL-3800-CESTAT-MUM.**

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