



### Inside this edition

- Effective Rate of Excise Duty fixed at 12.5% for vehicles for the transport of 10 or more persons.
- Rationalization of abatement for tour operator services and allowing the availment of CENVAT Credit on Input Services.
- Anti-dumping Duty continues and extends to already notified goods.
- Meaning of Supply under GST.

& more...

## EXCISE LAWS

### NOTIFICATIONS AND CIRCULARS



- Notification No. 02/2017-CE dated 11.01.2017 seeks to amend Notification No. 12/2012-CE dated 17.03.2012 by prescribing an effective rate of excise duty of 12.5% on Motor Vehicles falling under heading 8702 90 21, 8702 90 22, 8702 90 28, 8702 90 29 of the First Schedule of the Central Excise Tariff Act, 1985. *(basically Motor Vehicles for the transport of 10 or more persons, including the driver)*
- Notification No. 01/2017-CENT dated 11.01.2017 under section 11C of the Central Excise Act seeks to direct that the whole of the duty of excise payable u/s 3 of the said Act on the goods mentioned under heading 1302, for the period commencing from 19.07.2011 to 18.07.2016 shall not be required to be paid. Nevertheless, the

### JUDGEMENTS

- **Classification of Women's Footwear to determine the exact rate of Duty Drawback**  
In the case of Wishall International v. Union of India {[2017] 77 taxmann.com 363 (Delhi)} the High Court of Delhi ruled in the favour the assessee allowing him a higher rate of Duty Drawback based on the classification of Women's Footwear as Sandals ,even though there was no strap at the back, and not chappals. Thereby a higher rate of duty drawback at 10% was allowed instead of 5%.

## SERVICE TAX

### NOTIFICATIONS AND CIRCULARS

- Notification Nos. 01/2017 dated 12.01.2017 seeks to amend the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 so as to:
  - (i) withdraw the exemption from service tax for services provided or agreed to be provided by a person located in a non-taxable territory to a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India;
  - (ii) exempt services provided by a business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch.
- Notification No. 02/2017-ST dated 12.01.2017 seeks to ammend Service Tax Rules, 1994 so as to:
  - (i) Exclude such persons from the definition of 'aggregator' who enable a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to fulfillment of certain conditions;
  - (ii) Specify the person complying with the sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) as the person liable for paying service tax in case of services provided or agreed to be provided by a person



located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.



- Notification No. 04/2017-ST dated 12.01.2017 seeks to amend Notification No. 26/2012-ST dated 20.06.2012 so as to rationalize the abatement for tour operator services and also allowing the availment of CENVAT Credit on Input Services with effect from 22.01.2017.
- Notification No. 05/2017-ST dated 30.01.2017 seeks to amend notification No. 25/2012-ST dated 20.06.2012 so as to withdraw the exemption from service tax for online information and database access or retrieval services provided by a person located in non-taxable territory to an entity in India registered under section 12AA of the Income Tax Act, 1961 (43 of 1961).

## JUDGEMENTS

- **Service receiver has a locus standi to claim refund under Service Tax Laws**

In the case of Chambal Fertilizers & Chemical Ltd. Vs. Commissioner of Central Excise & Service Tax, Indore {[2017] 78 taxmann.com 31 (New Delhi-CESTAT)}, the honourable Tribunal debated the concept of refund of duty under Section 11B of the Central Excise Act, 1944. In the instant case the assessee, a

service recipient had paid excess service tax to the service provider and in turn claimed a refund under Section 11B of the Central Excise Act, 1944. The adjudicating Authority denied the refund because the Service Recipient did not have locus standi to claim refund. The CESTAT ruled in favour of the assessee and held that the applicability of claiming refund is not restricted only to service provider, but the service recipient is well entitled to claim refund.

- **In a contract for retreading of tyres, assessee is liable to pay service tax only on service component which under State Act has been quantified at 30 per cent and not on entire gross value of service rendered**



In the case of Safety Retreading Company (P.) Ltd. V. Commissioner of Central Excise, Salem {[2017] 77 taxmann.com 280 (SC)} the Honourable Supreme Court considered the main issue: whether in a contract for retreading of tyres, service tax is leviable on the total amount charged for retreading including the value of the materials/goods that have been used and sold in the execution of the contract? The Supreme Court upon examining the records and evidences put forward by both the parties concluded that the appellant was depositing service tax on only the labour charges of 30% and the state taxes on the balance material of 70%. The same was bifurcated in the bills.

## CUSTOMS

### NOTIFICATIONS AND CIRCULARS

- Notification No. 02/2017-Customs dated 27.01.2017 seeks to further amend Notification No. 96/2008-Customs dated 13.08.2008 so as to prescribe a Margin of Preference of 60% for all goods falling under sub-heading [0802 80] under the Duty Free Tariff Preference (DFTP) scheme.
- Tariff Value Notification in respect of Fixation of Tariff vide Notification No. 04/2017-Cus (NT) dated 13.01.2017 was issued to fix the tariff values of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nuts, Gold and Silver.



- Notification No. 07/2017-Cus (NT) dated 24.01.2017 seeks to notify the India-Japan Comprehensive Economic Partnership Agreement (Bilateral Safeguard Measures) Rules, 2017.
- Notification No. 01/2017-Cus (ADD) dated 05.01.2017 seeks to levy definitive anti-dumping duty on import of 'Jute Products' viz. Jute Yarn/Twine (multiple folded/cabled and single), Hessian fabric and Jute sacking bags from Bangladesh or Nepal for a period of five years (unless revoked, superseded or amended earlier).
- Notification No. 02/2017-Cus (ADD) dated 11.01.2017 seeks to levy provisional anti-dumping duty on 'Colour coated/pre-

painted flat products of alloy or non-alloy steel' originating in or exported from People's Republic of China and European Union for a period of six months (unless revoked, superseded or amended earlier).



- Notification No. 04/2017-Cus (ADD) dated 19.01.2017 seeks to extend the levy of anti-dumping duty, imposed on Nylon Filament yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea R.P under notification No. 03/2012-Customs (ADD), dated the 13.01.2012, for a further period of one year i.e., upto and inclusive of the 12.01.2018.



## GOODS & SERVICES TAX (GST)

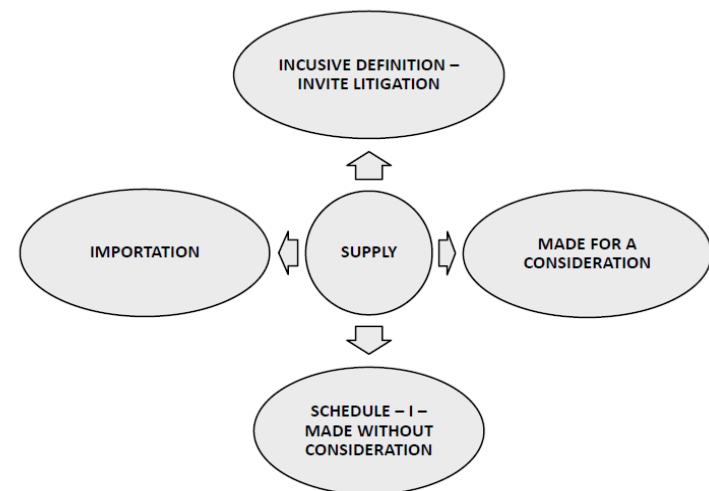
### Meaning of Supply

- The taxable event for levy of Goods and Services Tax (GST) is 'supply' and hence Section 3 of the Model GST Act, as released by the Finance Ministry covers the meaning of 'supply'.
- Definition of 'supply' Under section 2(92) read with Section 3, 'supply' includes:
  - all forms of supply of goods and/or services such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
  - Supplies made or agreed to be made without a consideration, as specified in Schedule I which presently lists 5 items namely, permanent transfer/disposal of business assets, temporary application of business assets to a private or non-business use, assets retained after deregistration and supply of goods and/or services by a taxable person to another taxable person to another taxable or non-taxable person in the course of furtherance of business.
  - Importation of service with or without consideration and whether or not in the course or furtherance of business
  - Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives

any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply."

- Notwithstanding anything contained in sub-section (1), the supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator."
- Other than above, Schedule II also covers list of certain transactions, which are to be treated as supply of goods or services.
- Schedule III and Schedules IV specifies activities and transactions which are not to be treated as supply and hence to not liable for GST. A few examples include Services by an employee to an employer, Service by a court or tribunal, Functions/duties performed by a MP/MLA, etc.

### CONCEPT OF SUPPLY



- Further it may be noted that the supply can be in the nature of inter-state (from/to outside the state) or intra-state (within the state).
- As GST is a destination-based tax, the supply of goods/services shall be deemed as interstate when the location of the supplier and the place of supply are in different state.
- The supply of two or more individual supplies of goods or services, or any combination of goods and services, by a taxable person, for a single price, is called Mixed Supply. In Mixed Supply, the combination of goods and/or services are not bundled due to natural necessities, and they can be supplied individually in the ordinary course of business also.
- To calculate the tax liability on mixed supply, the tax rate applicable on the goods or services attracting the highest rate of tax, in the combination of goods and services, is considered.
- An assessee makes composite Supply of goods and services to a recipient, and it comprises two or more supplies of goods or services, or a combination of goods and services, which are

naturally bundled and supplied, in the ordinary course of business. This means that the goods and services are bundled owing to natural necessities. The elements in a composite supply of goods and services are dependent elements on the 'principal supply' of goods or services.

- The pre-dominant element in the supply of goods or services, forming part of composite supply, is principal supply, and any other dependent supply, forming part of composite supplies, are secondary to principal supply.
- For purpose of calculating tax liability, the rate of tax applicable on the principal supply of such goods and services will be affected on the composite supply.

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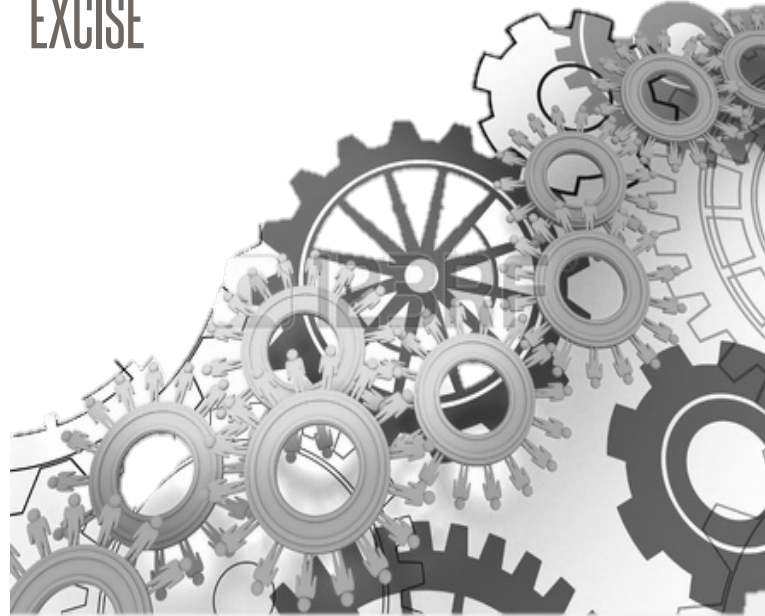
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**EXCISE**



**SERVICE TAX**



**CUSTOMS**



**GOODS & SERVICES  
TAX (GST)**

