

LOVI MEHROTRA & ASSOCIATES

CHARTERED ACCOUNTANTS

MONTHLY UPDATE FOR THE MONTH OF NOVEMBER 2017

(Circulars/ Notifications released during
November 2017)

30th November 2017

[Income Tax](#)

[GST](#)

[Customs Duty](#)

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I. INCOME TAX

| S.NO. | CIRCULAR/ NOTIFICATION NO. | PARTICULARS | SHORT SUMMARY |
|-------|--|---|--|
| 1. | CBDT Circular No. 27/2017 dated 03.11.2017 | Clarification on Cash sale of agricultural produce by cultivators /agriculturist | <p>CBDT has clarified that cash sale of agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not-</p> <ul style="list-style-type: none"> - result in any disallowance of expenditure under section 40A (3) of the Act in the hands of trader. - attract prohibition under section 269ST of the Act in the hands of the cultivator and -require the cultivator to quote his PAN/ or furnish Form No.60 <p>Circular Press Release</p> |
| 2. | CBDT Circular No. 28/2017 dated 07.11.2017 | Clarification on Indirect Transfer provisions in case of redemption of share or interest outside India under the Income-tax Act, 1961 | <p>CBDT has clarified that provisions of section 9(1)(i) of the Act shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buyback of its share or interest held indirectly (i.e. through upstream entities registered or incorporated outside India) in the specified funds if such income accrues or arises from or in consequence of transfer of shares or securities held in India by the specified funds and such income is chargeable to tax in India.</p> <p>It is further clarified that Non resident investing directly in the specified funds shall continue to be taxed as per the extant provisions of the Act</p> <p>Circular</p> |
| 3. | CBDT Press Release dated 01.11.2017 | Rules in respect of Country-by-Country reporting and furnishing of master file | <p>CBDT has notified the rules in respect of Country-by-Country reporting and furnishing of master file. Also, the date of compliance for furnishing the Master File for FY 2016-17 has been extended to 31st of March, 2018 as a one-time relief measure.</p> |

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| | | | Press Release |
| 4. | CBDT Press Release dated 02.11.2017 | Advance Pricing Agreement | CBDT has signed seven Unilateral Advance Pricing Agreements pertaining to various sectors of the economy like FMCG, Semi-conductor, Information Technology, Travel & Leisure, Office furniture and Engineering. Press Release |
| 5. | CBDT Press Release dated 02.11.2017 | Draft notification under section 115JG (1) of the Income-tax Act, 1961 in respect of conversion of Indian branch of foreign bank into Indian subsidiary company | Reserve Bank of India had released the “Scheme for setting up of wholly owned subsidiaries (WOS) by foreign bank in India” on 6th November, 2013. Which deals with the procedure for conversion of existing branches of foreign bank to WOS. In this regard, Draft notification is proposed to be issued under section 115JG (1) of the Act specifying the conditions to be fulfilled by the conversion and also specifying exceptions, in applicability of certain provisions of the Act to such conversion. Comments have been invited from stakeholders and general public on the Draft Notification. Draft Notification Press Release |
| 6. | CBDT Instruction No.10/2017 dated 15.11.2017 | Guidelines for issuing intimation proposing adjustments u/s 143(1)(a)(vi) | CBDT has laid down guidelines regarding applicability of section 143(1)(a)(vi) of the Act while considering returns for processing pertaining to ITR Forms 2 , 3, 4, 5& 6. Instruction |

Update on Income Computation and Disclosure Standards (ICDS)

Hon'ble Delhi High Court, in a recent ruling while, upholding the constitutional validity of the Income Computation and Disclosure Standards (ICDS), struck down certain provisions which were held to against judicial precedents and provisions of the Income Tax Act, 1961. The main points of the High Court Order are summarized as below:

| S. No. | ICDS No. and Name | Issue under the ICDS | ICDS Issue in contradiction of Case Laws or Accounting System or Accounting Standards | Whether the Issue held Ultra Vires the Act, and Struck off |
|--------|--|---|--|--|
| 1 | ICDS I - Prudence | ICDS does not follow concept of "Prudence" held unsustainable in law. | <u>Contrary decisions</u> Triveni Engineering & Industries Ltd Advance Construction Co. Pvt. Ltd. (Guj. HC) | Yes, so prudence concept to be followed. |
| 2 | ICDS II - Valuation of Inventories | Valuation of inventories in case of dissolution of partnership firms or AOP or BOI to be valued at NRV irrespective of continuance of business. | Contrary decision of Supreme Court in the case of Shakti Trading Co. | Yes |
| 3 | ICDS III - Construction Contracts | As per Para 10(a) of the ICDS, retention money to be taxable | <u>Contrary decisions</u> (which held that the retention money does not accrue to an Assessee until and unless the defect liability period is over) (i) Simplex Concrete Piles India (P) Ltd (Cal. HC) (ii) P & C Constructions (P) Ltd (Mad. HC) (iii) Amarshiv Construction (P) Ltd (Guj. HC) (iv) Ballast Nedam International (Guj. HC) (v) Anup Engineering Limited (Guj. HC) | Yes. |
| 4 | ICDS III - Construction Contracts and ICDS IX - Borrowing Cost | Para 12 of ICDS III read with para 5 of ICDS IX, dealing with borrowing costs, makes it clear that no incidental income can be | Contrary to the decision of the Supreme Court in. Bokaro Steel Limited . | Yes |

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| | | reduced from borrowing cost. | | |
| 5 | ICDS IV - Revenue Recognition | Para 5 of ICDS-IV requires an Assessee to recognize income from export incentive in the year of making of the claim if there is 'reasonable certainty' of its ultimate collection. | Contrary to the decision of the Supreme Court in Excel Industries | Yes |
| 6 | ICDS IV - Revenue Recognition | Para 6 of ICDS-IV permits only one of the methods, i.e., proportionate completion method and not the contract completion method. | Proportionate completion method as well as the contract completion method held valid under following case laws: (i) Bilhari Investment Pvt. Ltd. (SC) (ii) Manish Buildwell Pvt. Ltd (Delhi HC) | Yes |
| 7 | ICDS IV - Revenue Recognition | Para 8 (1) of ICDS IV which mandated Interest Accrual on Time Basis, is not shown to be contrary to any judicial precedent. There is also no challenge to Section 36(1) (vii) of the Act. | NA. | No. This issue has been held valid by the High Court |
| 8 | ICDS VI - Effects of changes in Foreign Exchange Rates | Marked to market loss/gain in case of foreign currency derivatives held for trading or speculation purposes are not to be allowed. | Contrary to the ratio laid down by the Supreme Court in Sulej Cotton Mills Limited. | Yes |
| 9 | ICDS VII - Government Grants | ICDS VII which provides that recognition of government grants cannot be postponed beyond the date of actual receipt, is in conflict with the accrual system of accounting. | Contrary to the accrual system of accounting. | Yes |
| 10 | ICDS VIII - Securities | For entities not governed by RBI to whom Part A of ICDS VIII is applicable, the accounting prescribed by the AS has to be followed | Valuation of Securities contrary to the applicable Accounting Standard. | Yes |

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| | | which is different from the ICDS. As a result, such entities would be required to maintain separate records for income tax purposes every year since the closing value of the securities would have to be valued separately for income tax purposes and for accounting purposes. | |
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II. GOODS AND SERVICE TAX

| S.NO. | CIRCULAR/ NOTIFICATION NO. | PARTICULARS | SHORT SUMMARY | | | | | | | | |
|--------------|---|---|--|--------|------|--------------|----------------|------------|----------------|------------|------------------|
| 1. | CBEC Notification No. 55/2017-CT dated 15.11.2017 | - Twelfth Amendment to CGST Rules, 2017 | <p>CBEC has notified the CGST (12th Amendment) Rules, 2017, to effect amendments in Rules 43(2), 54(2), 124(4) and to insert</p> <ul style="list-style-type: none"> - Rule 97A/ 107A for Manual Filing and Processing, - Rule 109A for Appointment of Appellate Authority, - Form GST RFD-01A for Manual Application for refund by casual taxable person or non-resident taxable person, tax deductor, tax collector and other registered taxable person, -Form GST RFD-01B for Refund Order details. <p style="text-align: center;">Notification</p> | | | | | | | | |
| 2. | CBEC Notification No. 56/2017-CT dated 15.11.2017 | To mandate furnishing of return in FORM GSTR-3B till March, 2018 | <p>CBEC has specified that all taxpayers are required to file return in Form GSTR-3B along with payment of tax by 20th of the succeeding month till March, 2018.</p> <p style="text-align: center;">Notification</p> | | | | | | | | |
| 3. | CBEC Notification No. 57/2017-CT dated 15.11.2017 | Quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs.1.5 crore | <p>CBEC has prescribed Quarterly furnishing of GSTR-1 for taxpayers having aggregate turnover upto Rs. 1.5 crore.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Period</th> <th style="text-align: center;">Date</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">July- Sep 17</td> <td style="text-align: center;">31st Dec, 2017</td> </tr> <tr> <td style="text-align: center;">Oct-Dec 17</td> <td style="text-align: center;">15th Feb, 2018</td> </tr> <tr> <td style="text-align: center;">Jan-Mar 18</td> <td style="text-align: center;">30th April, 2018</td> </tr> </tbody> </table> <p style="text-align: center;">Notification</p> | Period | Date | July- Sep 17 | 31st Dec, 2017 | Oct-Dec 17 | 15th Feb, 2018 | Jan-Mar 18 | 30th April, 2018 |
| Period | Date | | | | | | | | | | |
| July- Sep 17 | 31st Dec, 2017 | | | | | | | | | | |
| Oct-Dec 17 | 15th Feb, 2018 | | | | | | | | | | |
| Jan-Mar 18 | 30th April, 2018 | | | | | | | | | | |

| 4. | <p>CBEC Notification No. 58/2017-CT dated 15.11.2017</p> | <p>Extended due date for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs.1.5 crore</p> | <p>CBEC has extended due date for furnishing of GSTR-1 for taxpayers having aggregate turnover more Rs. 1.5 crore.</p> <table border="1" data-bbox="951 264 1365 758"> <thead> <tr> <th>Period</th> <th>Dates</th> </tr> </thead> <tbody> <tr> <td>July-Oct'17</td> <td>31st Dec, 2017</td> </tr> <tr> <td>Nov'17</td> <td>10th Jan, 2018</td> </tr> <tr> <td>Dec'17</td> <td>10th Feb, 2018</td> </tr> <tr> <td>Jan'17</td> <td>10th Mar, 2018</td> </tr> <tr> <td>Feb'17</td> <td>10th Apr, 2018</td> </tr> <tr> <td>Mar'17</td> <td>10th May, 2018</td> </tr> </tbody> </table> <p>Notification</p> | Period | Dates | July-Oct'17 | 31 st Dec, 2017 | Nov'17 | 10 th Jan, 2018 | Dec'17 | 10 th Feb, 2018 | Jan'17 | 10 th Mar, 2018 | Feb'17 | 10 th Apr, 2018 | Mar'17 | 10 th May, 2018 |
|-------------|--|---|--|--------|-------|-------------|----------------------------|--------|----------------------------|--------|----------------------------|--------|----------------------------|--------|----------------------------|--------|----------------------------|
| Period | Dates | | | | | | | | | | | | | | | | |
| July-Oct'17 | 31 st Dec, 2017 | | | | | | | | | | | | | | | | |
| Nov'17 | 10 th Jan, 2018 | | | | | | | | | | | | | | | | |
| Dec'17 | 10 th Feb, 2018 | | | | | | | | | | | | | | | | |
| Jan'17 | 10 th Mar, 2018 | | | | | | | | | | | | | | | | |
| Feb'17 | 10 th Apr, 2018 | | | | | | | | | | | | | | | | |
| Mar'17 | 10 th May, 2018 | | | | | | | | | | | | | | | | |
| 5. | <p>CBEC Notification No. 64/2017-CT dated 15.11.2017</p> | <p>To limit the maximum late fee payable for delayed filing of return in FORM GSTR-3B from October, 2017 onwards</p> | <p>CBEC has reduced the rate of penalty for delay in filing of returns from October 2017-</p> <ul style="list-style-type: none"> -For Nil Return – from Rs. 200 per day to Rs. 20 per day -For others- from Rs. 200 per day to Rs. 50 per day <p>Notification</p> | | | | | | | | | | | | | | |
| 6. | <p>CBEC Notification No. 65/2017-CT dated 15.11.2017</p> | <p>Exemption from obtaining registration to person supplies taxable services through an electronic commerce operator</p> | <p>A person making supplies of taxable services through an electronic commerce operator has been exempted from the requirement of obtaining registration if the aggregate value of such supplies on all India basis does not exceed twenty lakh rupees in a financial year. (ten lakh rupees in case of Special Category States, other than the State of Jammu and Kashmir).</p> <p>Notification</p> | | | | | | | | | | | | | | |
| 7. | <p>CBEC Notification No. 66/2017-CT dated 15.11.2017</p> | <p>To exempt payment of tax on advances received in case of supply of goods</p> | <p>CBEC has exempted the registered person who did not opt for the composition levy under section 10 of the said Act from payment of GST on receipt of advance against supply of goods.</p> <p>Notification</p> | | | | | | | | | | | | | | |

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| 8. | CBEC Notification No. 43/2017-CT(R) & 45/2017-IT(R) dated 14.11.2017 | Amendment in Notification No.- 4/2017 | CBEC has provided that Raw cotton supplied by agriculturist to any registered person, shall be covered under RCM. Notification-CT(R) Notification-IT(R) |
| 9. | CBEC Notification No. 45/2017-CT(R) & 47/2017-IT(R) dated 14.11.2017 | Concessional rate on scientific and technical equipment | CBEC has provided concessional CGST/UTGST rate of 2.5% and IGST rate of 5% on scientific and technical equipments, supplied to -public funded research institutions other than hospital and university) -Departments and laboratories of Central Government and State Governments and, -Regional Cancer Centre. Notification-CT(R) Notification-IT(R) |
| 10. | CBEC Notification No. 46/2017-CT(R) & 48/2017-IT(R) dated 14.11.2017 | To amend Notification No. 11/2017- CT(R) & 8/2017- IT(R) | CBEC has reduced GST rates for - Services by restaurants (including food parcel or takeaways) <i>other than those restaurants located in hotel premises having room tariff of more than Rs. 7,500 per unit per day (CGST/UTGST @2.5%/ IGST @5% without input tax credit benefit)</i> - Services by restaurants in hotel premises having room tariff of Rs. 7,500 and above per unit per day (CGST/UTGST @9%/ IGST @18%) with input tax credit benefit. - Services by way of job work in relation to manufacture of handicraft goods (CGST/UTGST @2.5%/ IGST @5%) Notification-CT(R) Notification-IT(R) |

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| 11. | CBEC Notification No. 47/2017-CT(R) & 49/2017-IT(R) dated 14.11.2017 | To amend Notification No. 12/2017-CT(R) 9/2017-IT(R) | CBEC has extended the exemption from GST to entry fee in respect of admission to 'protected monument'. Notification-CT(R) Notification-IT(R) |
| 12. | CBEC Notification No. 12/2017-IT dated 15.11.2017 | Integrated Goods and Service Tax Amendment Rules, 2017 | CBEC has made rules for apportionment of IGST with respect to advertisement services under section 12 (14) of the IGST Act, 2017. Notification-IT |
| 13. | CBEC Notification No. 50/2017-IT dated 14.11.2017 | To extend exemption in relation to Skimmed Milk Powder, or concentrated milk | CBEC has extended the benefit of IGST exemption applicable in relation to supply of Skimmed milk powder or concentrated milk for use in the production of milk distributed through dairy co-operatives to the companies that are registered under the Companies Act, 2013 also. Notification-IT(R) |
| 14. | CBEC Circular No. 14/2017-CT dated 06.11.2017 | Deemed Export of Goods | CBEC has prescribed procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017. Circular |
| 15. | CBEC Circular No. 15/2017-CT dated 06.11.2017 | Due date for generation of Form GSTR-2A and GSTR-1A | -Details furnished in FORM GSTR-1 are available to the recipient in FORM GSTR-2A from 11th of October, 2017 -Details in FORM GSTR- 1A shall be made available to the supplier from the 1st of December to the 6th of December, 2017 for the month of July 2017. Circular |

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| 16. | CBEC Circular 16/2017-CT dated 15.11.2017 | No. – Clarifications regarding applicability of GST and availability of ITC in respect of certain services. | CBEC has provided clarification on applicability of GST and availability of ITC in respect of following services: <ul style="list-style-type: none"> - Warehousing of agricultural produce - Inter-state transfer of aircraft engines, parts and accessories - General insurance policies provided by a State Government to its employees Circular |
| 17. | CBEC Circular 17/2017-CT dated 15.11.2017 | No. – Manual filing and processing of refund claims in respect of zero-rated supplies | CBEC has prescribed conditions and procedure for manual filing and processing of refund claims in respect of zero-rated supplies. Circular |
| 18. | CBEC Circular 18/2017-CT dated 15.11.2017 | No. – Refund of unutilized input tax credit of GST paid on inputs in respect of exporters of fabrics | CBEC has clarified that restriction on refund of unutilized input tax credit of GST paid on inputs will not be applicable to zero rated supplies. Circular |
| 19. | CBEC Circular 19/2017-CT dated 15.11.2017 | No. – Clarification on taxability of custom milling of paddy. | CBEC has clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice). Circular |
| 20. | CBEC Circular 21/2017-CT dated 22.11.2017 | No. – Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels like cranes | CBEC has clarified that Inter-state movement of rigs, tools and spares, and all goods on wheels like cranes shall be treated 'neither as a supply of goods or supply of service' and consequently not liable for IGST except on repairs and maintenance done for such goods. Circular |
| Extension of Due Dates for filing of Returns | | | |

| S.No. | Form | Period | Revised Due Date | |
|-------|------------|----------------|---|--|
| 1. | GST ITC-04 | July-Sep, 2017 | 31 st Dec, 2017 | Notification |
| 2. | GSTR-4 | July-Sep, 2017 | 24 th Dec, 2017 | Notification |
| 3. | GSTR-5 | July-Oct,2017 | 11 th Dec, 2017 | Notification |
| 4. | GSTR-5A | July-Oct,2017 | 15 th Dec, 2017 | Notification |
| 5. | GSTR-6 | July,2017 | 31 st Dec, 2017 | Notification |
| 6. | TRAN-1 | | 27 th Dec, 2017 (One time option of revision also to be given till this date) | Order 09/2017 Order 10/2017 |

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III. CUSTOMS DUTY

| S.NO. | CIRCULAR/ NOTIFICATION NO. | PARTICULARS | SHORT SUMMARY |
|-------|--|------------------|---|
| 1. | CBEC Notification No. 110/2017 dated 16.11.2017 | Rate of Exchange | CBEC has notified the rate of exchange of conversion of foreign currency for import and export of goods for 20 currencies specified in Schedule I & Schedule II effective from 17th November, 2017. Notification |

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Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month. Instead it is only a listing of some of the circulars/notifications that we considered important

