Indian Indirect Tax Laws-
A Brief Guide

by
Shammi Kapoor shammi@vaishlaw.com
Vishal Kumar vishal@vaishlaw.com
Purva Juneja purva@vaishlaw.com

Service Tax
Taxation of Service ........................................................................................................ 1
Important provisions governing levy of service tax are discussed in the
succeeding paragraphs..................................................................................................... 2
General exemptions........................................................................................................ 3
Compliance under Service Tax ..................................................................................... 4
Provision for centralized registration ......................................................................... 5
CENVAT Credit............................................................................................................. 6
Export and import of services ...................................................................................... 7
Advance ruling .............................................................................................................. 8
Administration............................................................................................................. 9

Customs Duty
Chargeability of Customs Duty .................................................................................... 10
Levy of customs ........................................................................................................... 11
Export duties ................................................................................................................ 12
Import duties ................................................................................................................ 13
Rate of duty .................................................................................................................. 14
Classification of Goods ............................................................................................... 15
Advance ruling ............................................................................................................. 16
Administration............................................................................................................. 17
Central Excise Act
Chargeability of Central Excise Duty ....................................................... 18
Levy of Central Excise Duty ........................................................................ 19
Levy of Excise Duty ....................................................................................... 20
Types of Excise Duty ...................................................................................... 21
Registration under the Central Excise Act ................................................... 22
Persons Exempted from Registration .......................................................... 23
Liability to pay duty is on the manufacturer ................................................ 24
Valuation of excisable goods ........................................................................ 25
Rate of Central Excise Duty .......................................................................... 26
Classification of Goods ................................................................................ 27
Administration ................................................................................................ 28

Central Sales Tax/Value Added Tax
Central Sales Tax .......................................................................................... 29
Value Added Tax ............................................................................................. 30

CENVAT Credit Scheme
Credit of duty paid on inputs and input services .......................................... 31
Compliances .................................................................................................... 32

Goods and Services Tax
Introduction ................................................................................................... 33
Expected rates of GST ..................................................................................... 34
Integrated GST for interstate transactions ...................................................... 35
1% Additional tax on supply of goods (ATSG) in interstate supply for two years ................................................................. 36
Goods and Service Taxes Council ................................................................. 37
Registration number of assesse .................................................................... 38
Value for purpose of GST .............................................................................. 39
Electronic returns .......................................................................................... 40
Administration of taxes ................................................................................ 41
Service Tax

1. Taxation of Service

Service tax was introduced for the first time in 1994 through insertion of Chapter V in the Finance Act, 1994 (the “Finance Act”) as a mean to broaden the indirect tax base. It may be noted that there is no separate enactment for service tax till date and it continues to be governed by the provisions of Chapter V of the Finance Act (ss 64 to 100) and the rules incorporated under the Service Tax Rules, 1994.

The Finance Act provides for methods of levying service tax, the circumstances in which the levy would arise, the procedures to be followed and allied matters such as registration, self-assessment, penalty, etc. Initially, the levy of service tax was confined only to three services. Since then, year after year, the scope of service tax gradually increased and extended to over 120 services. The Finance Act, which provides for levy of service tax has been substantially amended by the Finance Act, 2012, w.e.f., 1.07.2012. There has in fact been a paradigm shift in the law relating to levy of service tax, pursuant to the aforesaid amendments. Generally speaking, service tax is now leviable on all services except those mentioned in the negative list and exemption notification.

The relevant statutes governing the levy of service tax are as follows:

(i) Finance Act, 1994 – Chapter V (ss 64 to 100): This chapter extends to the whole of India except the State of Jammu and Kashmir
(ii) Service Tax Rules, 1994
(iii) Point of Taxation Rules, 2011
(iv) Service Tax (Determination of Value) Rules, 2006
(v) Service Tax (Advance Rulings) Rules, 2003
(vi) Place of Provision of Services Rules, 2012
(vii) CENVAT Credit Rules, 2004
2. **Important provisions governing levy of service tax are discussed in the succeeding paragraphs**

**Levy of service tax**
- Service tax is levied on all services except those mentioned in the negative list and exemption notification.
- Presently, the service tax is levied at the rate of 14% on the value of taxable services.

**Taxable services**
Section 66B of the Finance Act is the charging section. The terms “taxable service” is defined to mean any service on which service tax is leviable under s 66B of the Act. Hitherto, the liability to pay service tax was on realisation of the value of taxable service. However, with the introduction of Point of Taxation Rules, 2011, w.e.f. 01.06.2011, the liability to pay service tax has been shifted to invoice method, ie, on raising of invoice.

**Persons liable to pay service tax**
Liability to pay service tax is cast on the service provider. However, in some cases, recipients of services have been made liable (on partial/ reverse charge method) to pay service tax under the Finance Act.

**Exemption to small service providers**
Service tax is exempted up to Rs 10,00,000 (Indian Rupees One Million), being the aggregate value of all taxable services provided by a service provider during a financial year. The aggregate taxable value means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year, but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under s 66 B of the Finance Act or under any other notification. However, the above exemption is not admissible to:

(a) taxable services provided by a person under a brand name or trade name, whether registered or not, of another person; or

(b) such value of taxable services in respect of which service tax shall be paid by the recipient of services (on reverse charge method) under the Finance Act.
3. General exemptions

Other than the threshold exemption to small service providers, certain relevant exemptions from payment of whole of the amount of service tax are provided by way of Notifications, as under:

- Services provided to the United Nations or specified international organizations.

- Services provided to a developer of Special Economic Zone or a unit in Special Economic Zone. However, under the present provisions (vide Notification No. 12/2013 dated 01.07.2013), specified service received by SEZ unit/Developer is *ab initio* exempt when used exclusively used for the authorized operations. For this purpose, the SEZ unit/Developer would need to seek an approval from the Approval Committee, of the list of services as are required for the authorized operations. In relation to the specified services that are not exclusively used for authorized operations, the SEZ unit/Developer shall be liable to first pay service tax and subsequently claim refund thereof.

- Exemption to taxable service provided to Foreign Diplomatic Missions or Consular Post for official use and also for personal use or for the use of their family members.

- Certain specified taxable services received by an exporter of goods and used for export of goods (vide Notification No. 41/2012-ST dated 29.06.2012).

4. Compliance under Service Tax

- Registration to be obtained from jurisdictional Central Excise authorities.

- Every person who has provided taxable service of value exceeding Rs 9,00,000 (Indian Rupees Nine Hundred Thousand), in the preceding financial year, is required to register with the concerned superintendent of Central Excise in Form ST-1. In case a recipient of service is liable to deposit service tax (under reverse charge method), he is also required to obtain registration.
5. **Provision for centralized registration**

- Service provider located in one or more premises having centralized accounting or centralized billing system, may register such premises or office from where such centralized billing or centralized accounting systems are located and thus, hold centralized registration. The Commissioner of Central Excise in whose jurisdiction centralized account or billing office of the assessee exists, is empowered to grant centralized registration.

- Payment of tax is on monthly/quarterly basis, depending upon the category of the assessee.

- Filing of half-yearly service tax returns in Form ST-3. Return for half year ending on 30th day of September and 31st day of March is required to be filed by the 25th day of October and 25th day of April, respectively.

- Assessment of service tax is on self-assessment basis.

6. **CENVAT Credit**

- Credit under central excise and service tax has been extended across goods and services. The CENVAT Credit Rules, 2004 provide *inter alia* for availment of the credit of (i) the service tax paid on input services; (ii) central excise duties paid on inputs/capital goods; and (iii) additional customs duty leviable under s 3 of the Customs Tariff Act, equivalent to the duties of excise. Such credit amount can be utilized towards payment of service tax by an assessee on their output services.

- Such credit can also be availed by a manufacturer and utilised for discharging their liability towards service tax and/or central excise duties.

7. **Export and import of services**

The Export of Service Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 (Import of Service Rules) have been superseded by the Place of Provision of Services Rules, 2012 (PoP Rules). Presently, the PoP Rules govern where a service is provided/deemed to be
provided and accordingly determine whether a service qualifies as export/import of service.

8. **Advance ruling**

- Advance ruling means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided by the applicant.

- Authority for Advance Rulings for Central Excise, Customs and Service Tax is meant to provide binding ruling on the important issues such that intending applicants will have a clear-cut indication of their duty/tax liability in advance.

**Questions on which an advance ruling can be sought**

Advance rulings, concerning service tax matters, can be sought in respect of:

(i) Classification of any service as a taxable service under Chapter V of the Finance Act;
(ii) Valuation of taxable services for charging service tax;
(iii) Principles to be adopted for the purposes of determination of the value of the taxable service under the Finance Act;
(iv) Applicability of notifications issued under the Finance Act;
(v) Admissibility of credit of duty or tax in terms of the rules made in this regard; and
(vi) Determination of the liability to pay service tax on a taxable service under the Finance Act.

**Persons eligible to apply for an advance ruling**

(i) A non-resident setting up a joint venture in India in collaboration with a non-resident or a resident;
(ii) A resident setting up a joint venture in India in collaboration with a non-resident;
(iii) A wholly owned subsidiary Indian company, of which the holding company is a foreign company, who or which proposes to undertake any business activity in India;
(iv) A joint venture in India;
(v) A resident falling within any such class or category of persons, as the Central Government may, by notification in the official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-s (1) of s 96C of the Finance Act.

9. Administration

The service tax law is administered by the Central Excise Commissionerates functioning under the Central Board of Excise & Customs (CBEC), Department of Revenue, Ministry of Finance, Government of India.

Customs Duty

10. Chargeability of Customs Duty

- The import and export duty is a Union subject under Entry 83 to List-I of the Seventh Schedule to the Constitution of India under the heading “Duties of Customs including Export Duties”. Article 246(1) of the Constitution confers exclusive powers upon Parliament to make laws with respect to any of matters enumerated in the Union List. In exercise of its powers, Parliament enacted the Customs Act, 1962 (the “Customs Act”).

- Section 12 of the Customs Act, the charging section, provides that duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (CTA), or any other law for the time being in force, on goods imported into, or exported from India. Customs duties include both import and export duties. However, since export duties contribute only nominal revenue due to emphasis on raising competitiveness of exports, import duties alone constituted major part of the revenue from customs duties.

- According to s 2(18) of the Customs Act, “export” with its grammatical variations and cognate expressions means taking out of India to a place outside India.
According to s 2(23) of the Customs Act, “import” with its grammatical variations and cognate expressions means bringing into India from a place outside India.

11. Levy of customs

Broadly, the following enactments deal with the matters relating to Customs Duty:

1. Customs Act, 1962
2. Customs Tariff Act, 1975
5. Customs (Advance Ruling) Rules, 2002
6. Customs, Central Excise Duty and Service Tax Drawback Rules, 1995
7. Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995
8. CENVAT Credit Rules, 2004
9. Customs (Compounding of Offences) Rules, 2005

Customs duties are levied on the goods at the rates specified in the Schedule(s) to the CTA as amended from time to time. The taxable event is imported into or exported from India.

12. Export duties

Under the Customs Act, goods exported from India may be subject to the levy of export duty. The items on which export duty is levied and the rate at which the duty is levied are given in the CTA. Depending on the prevailing circumstances and export sensitivity, export duties are levied on various items from time to time.

13. Import duties

Import duties generally consist of the following:

1. Basic Customs duty
Basic Customs Duty (BCD) is levied under s 12 of the Customs Act. Normally, it is levied as a percentage of value as determined under s 14(1) of the Customs Act. The rates at which BCD is charged vary from item-to-item. BCD may be fixed on ad valorem basis or specific rate basis. In other words, BCD may be a percentage of the value of the goods or at a specific rate.

2. **Additional duty of customs (countervailing duty - excise)**

Additional duty of customs is levied under s 3(1) of the CTA to countervail excise duty for the time being leviable on a like article if produced or manufactured in India. If such excise duty on a like article is leviable at any percentage of its value, the additional duty of customs to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article. “Additional Duty” is often referred to as “Countervailing Duty” (CVD).

3. **Additional duty of customs (countervailing duty - sales tax/VAT)**

Additional duty of Customs is levied under s 3(5) of CTA to countervail sales tax/VAT/local tax or any other charge for the time being leviable on a like article or its sale, purchase or transportation in India. The Central Government, may by notification in the official gazette, direct that the prescribed imported articles shall, in addition to basic customs duty and additional duty under s 3(1) of the CTA, be liable to an additional duty at a rate not exceeding four percent (4%) of the value of the imported articles as specified in that notification.

4. **National Calamity Contingent Duty**

In terms of s 3 of the CTA read with s 136 of the Finance Act, 2001, imported goods are charged to National Calamity Contingency Duty (NCCD) in the same manner as the relevant provisions for levy and collection of the duty of excise on such goods applicable in terms of the Central Excise Act, 1944. Accordingly, in terms of proviso to sub-s (2) of s 3 of the CTA, imported goods shall be charged to additional duty of customs on the basis of MRP/ RSP, if in case of an imported article, the MRP/RSP is required to be declared under the Legal Metrology Act, 2009 and Rules made thereunder notified with effect from 01.03.2011, and such a product is listed under the Notification prescribing levy of excise duty on MRP basis, ie, Notification No.49/2008-CE (N.T.) dated December 24, 2008 as amended.

5. **Safeguard duty**
Sections 8B, 8C, 9A, 9B and 9C of the CTA read with the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 and the Customs Tariff (Transitional Products Specific Safeguard Duty) Rules, 2002 form the legal basis for imposition of safeguard duty. The Central Government is empowered to impose safeguard duty on specified imported goods if it is satisfied that imports of a particular product, as a result of tariff concessions or other World Trade Organisation (WTO) obligations undertaken by the importing country, increase unexpectedly to an extent that they cause or threaten to cause serious injury to domestic producers of “like or directly competitive products”. The relevant provisions under the CTA seek to provide relief to the domestic producers against injury caused by imports in accordance with the WTO Agreements. These provisions are aimed at offsetting the adverse effects of increased imports, subsidised imports or dumped imports and imports from the Peoples’ Republic of China.

6. **Anti-dumping duty**

Sections 9A, 9B and 9C of the CTA read with the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 form the legal basis for anti-dumping investigations and for the levy of anti-dumping duties. These laws are based on the Agreement on Anti-Dumping which is in pursuance of Article VI of the General Agreement on Trade and Tariffs (GATT), 1994. The domestic industry can seek necessary relief and protection against dumping of goods and articles by exporting companies and firms of any country from any part of the world in terms of the above legal framework.

7. **Countervailing duty on subsidised articles**

Sections 9 of the CTA read with the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995 form the legal basis for anti-subsidy investigations and levy of countervailing duty. These laws are in consonance with the WTO agreements on anti-subsidy countervailing measures. If a country or territory pays any subsidy (directly or indirectly) to its exporters for exporting goods to India, the Central Government can impose countervailing duty up to the amount of such subsidy under s 9 of the Customs Tariff Act. The Customs Tariff (Identification, Assessment and Collection of Countervailing Duty or Subsidized Articles and for Determination of Injury) Rules, 1975 [Customs Notification No. 1/95 (N.T.) dated 1.1.95] provide detailed procedure for determining the injury to domestic industry in case of subsidised goods.
8. **Protective duties**

Section 6 of the CTA empowers the Central Government to levy protective duties in certain cases. Accordingly, based on the recommendations of the Tariff Commission, if the Central Government is satisfied that an immediate action is necessary to protect the interests of the Indian industry, it may levy protective customs duty at a rate recommended by the Tariff Commission. Such levy has to be levied by way of a Notification in the official gazette and is valid till the date prescribed in the Notification.

9. **Education cess/secondary and higher education cess**

In addition to the normal customs duties, education cess at the rate of 2%, and secondary and higher education (SHE) cess at the rate of 1%, on aggregate duties of customs (including CVD) is leviable. If goods are fully exempted from duty or are chargeable to Nil duty or are cleared without payment of duty under prescribed procedure (such as clearance under bond), no cess would be leviable. However, no education cess and SHE cess is leviable on anti-dumping duty, safeguard duty and protective duties. Further, certain cesses are leviable on some specified articles of exports like coffee, coir, lac, mica, pan masala, tobacco (unmanufactured), marine products, cashew kernels, black pepper, cardamom, iron ore, oil cakes and meals, animal feed and turmeric. These cesses are collected as parts of customs duties and are then passed on to the agencies in charge of the administration of the concerned commodities.

14. **Rate of duty**

- Customs duty is leviable based on the ITC (HSN) tariff classification of goods. There are different rates of customs duty prescribed for different tariff classifications. Item specific rates of duty are given in the relevant Schedule(s) to the CTA. In determining the applicable rate of customs duty for a particular item/class, exemption notification, if any, issued with respect to such item/class should be taken into consideration.

- Further, where India has entered into Bilateral/Multilateral Trade Agreement(s) with its trading partner countries wherein preferential rate of duties has been contemplated, the levy of customs duty in such cases shall be governed by the provisions of such Bilateral/Multilateral Trade Agreement(s). Such preferential rates of customs duty under the Bilateral/Multilateral Trade Agreement(s) are implemented through exemption notification(s) issued by the Government.
15. Classification of Goods

- The CTA consists of XXI sections and 98 chapters. A section is a grouping of a number of chapters which codify a particular class of goods. The section notes explain the scope of chapters/headings, etc. The chapters consist of chapter notes, brief description of commodities arranged according to HSN Numbers, which are allotted in the schedules either in four digits or in six digits or in eight digits. Every four digit code is called a “heading” and every six digit code is called a “subheading” and the eight digit code indicates the “specific commodity number”.

- The process of arriving at a particular heading/sub-heading/specific commodity number, either at four digit or six digit or eight digit level for a commodity in the Tariff Schedule is called “classification”. This helps in determining the rate of duty leviable as prescribed by the law.

- Further, classification of goods under a particular tariff heading is governed by a set of General Interpretative Rules, which form an integral part of the CTA. According to these Rules, classification is to be determined according to the terms of the headings or sub-headings or chapter notes.

16. Advance ruling

- Advance rulings enable any non-resident and resident investor to know in advance the customs duty liability on the proposed imports into India and proposed exports from India.

- Advance ruling means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay customs duty in relation to the proposed imports into or exports from India, by the applicant.

- Authority for Advance Rulings for Excise and Customs (AAR) is meant to provide binding ruling on the important issues so that prospective investors will have a clear indication of their customs duty liability in advance. It assures the applicant of the finality of the customs duty liability.

- The relevant provisions for obtaining an advance ruling are contained in Chapter V-B of the Customs Act, 1962. The Customs (Advance Rulings) Rules,
2002 notified vide Notification No. 55/2002-Customs (N.T.) dated August 23, 2002 as amended provide for the format to be used for filing an application.

Persons eligible to apply for advance ruling

(i) A non-resident setting up a joint venture in India in collaboration with a non-resident or a resident;
(ii) A resident setting up a joint venture in India in collaboration with a non-resident;
(iii) A [Indian] wholly owned subsidiary Indian company, of a foreign company, which the holding company is a foreign company, who or which proposes to undertake any business activity in India;
(iv) A joint venture in India;
(v) A resident falling within any such class or category of persons, as the Central Government may, by notification in the official gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under s 28H(1) of the Customs Act. The notified class of person also includes (i) the limited liability partnership as defined in cl (n) of sub-s (1) of the s 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or (ii) limited liability partnership which has no company as its partner; or (iii) the sole proprietorship; or (iv) one person company.

Issues on which advance rulings can be sought

(a) classification of goods under the CTA;
(b) applicability of a notification issued under s 25(1) of the Customs Act having a bearing on the rate of duty;
(c) the principles to be adopted for the purposes of determination of the value of the goods under the provisions of the Customs Act;
(d) applicability of notifications issued in respect of duties under the Customs Act, the CTA and any duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under the Customs Act;
(e) determination of origin of the goods in terms of the rules notified under the CTA and matters relating thereto.
17. Administration

Customs law is administered by the Customs Commissionerates functioning under the Central Board of Excise & Customs (CBEC), Department of Revenue, Ministry of Finance, Government of India.

Central Excise Act

18. Chargeability of Central Excise Duty

- The central excise duty has been mentioned under Entry 84 to List I of the Seventh Schedule to the Constitution of India (the “Union List”) as:
  
  Entry No. 84 –Duties of excise on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, narcotics, but including medical and toilet preparations containing alcohol, opium or narcotics.

- The Seventh Schedule to the Constitution of India indicates bifurcation of powers to make laws, between the Union Government and State Governments.

- Article 246(1) of the Constitution of India confers exclusive powers upon the Parliament to make laws with respect to any of matters enumerated in the Union List.

- Article 246(3) of the Constitution of India confers exclusive powers upon the State Government to make laws for the State with respect to any matter enumerated in List II of the Seventh Schedule to the Constitution of India (the “State List”). Power to impose excise on alcoholic liquors, opium and narcotics is vested with State Governments under Entry No. 51 of List II of the Seventh Schedule to the Constitution of India and it is called “State Excise”. The Act, Rules and rates for State excise on liquor are different for each State.

- Matters in respect of which both the Union and State Governments can exercise power to make laws are contained in List III of the Seventh Schedule to the Constitution of India (the “Concurrent List”). However, in case of Union
In exercise of its powers, the Parliament enacted the Central Excise Act, 1944 (the “Central Excise Act”) and Rules thereunder, which *inter alia* provide for levy, collection and connected procedures with respect to central excise duty (called “CENVAT”).

Section 3 of the Central Excise Act, the charging section, provides that there shall be levied and collected, in such a manner as may be prescribed, a duty of excise to be called the Central Value Added Tax (CENVAT) on all excisable goods (excluding goods produced or manufactured in Special Economic Zones) specified in the Second Schedule to the Central Excise Tariff Act, 1985 (CETA) which are produced or manufactured in India, as, and at the rates, set forth in the said Second Schedule.

The central excise duty is on the act of manufacture or production. The duty is collected, on the goods manufactured or produced, at the time of their removal from the factory. Generally, the manufacturer of goods is responsible to pay duty to the Government. The rates at which the central excise duty is to be paid are stipulated in the CETA.

### 19. Levy of Central Excise Duty

Broadly, the following laws deal with the matters relating to Central Excise Duty:

1. Central Excise Act, 1944
2. Central Excise Tariff Act, 1985
3. Additional Duties of Excise (Goods of Special Importance) Act, 1957
4. Central Excise Rules, 2002
5. CENVAT Credit Rules, 2004
20. Levy of Excise Duty

Section 3(1)(a) of the Central Excise Act provides that there shall be levied and collected in such a manner as may be prescribed a duty of excise to be called the CENVAT on all excisable goods (excluding goods produced or manufactured in Special Economic Zones) which are produced or manufactured in India as, and at the rates, set forth in the First Schedule to the CETA.

From the above, it can be observed that there are four basic conditions for levy of central excise duty, namely

(i) the duty is on goods; the word “goods” has not been defined the Central Excise Act. Article 366(12) of the Constitution of India defines “goods” includes all “material, commodities and articles”. This definition is wide for the purpose of central excise and case law on this is quite well developed.

(ii) the goods must be excisable;

(iii) the goods must be manufactured or produced; the term manufacture is defined under s 2(f) of the Central Excise Act as to include any process (i) incidental or ancillary to the completion of a manufactured product; (ii) which is specified in relation to any goods in the Section or Chapter notes of (the First Schedule) to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture; or (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer, and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;

(iv) such manufacture or production must be in India.

Unless all of these conditions are satisfied, central excise duty cannot be levied.
Further, a special duty of excise, in addition to the duty of excise specified in s 3(1)(a) above, on excisable goods (excluding goods produced or manufactured in Special Economic Zones) specified in the Second Schedule to the CETA which are produced or manufactured in India, as, and at the rates, set forth in the said Second Schedule shall be levied and collected in such manner as may be prescribed.

**21. Types of Excise Duty**

Excise duties are generally of the following types:

1. **Basic excise duty**
   Basic excise duty is levied under the Central Excise Act. Basic excise duty is levied at the rates specified in the First Schedule to the CETA read with exemption notification, if any. Normally, basic excise duty is levied as a percentage of value as determined under the provisions of the Central Excise Act. The rates at which basic excise duty is charged vary from item to item. Basic excise duty may be fixed on ad valorem basis or specific rate basis. In other words, basic excise duty may be a percentage of the value of the goods or at a specific rate.

2. **Additional duty on goods of special importance**
   Additional duty of excise is levied and collected on goods of special importance under s 3(1) of the Additional Duties of Excise (Goods of Special Importance) Act, 1957. Accordingly, there shall be levied and collected in respect of the goods described in the First Schedule which are produced or manufactured in India and on all such goods lying in stock within the precincts of any factory, warehouse or other premises where the said goods were manufactured, stored or produced, or in any premises appurtenant thereto, duties of excise at the rate or rates specified in the said Schedule.

3. **National Calamity Contingent Duty**
   Section 136 of the Finance Act, 2001 provides that in the case of goods specified in the Seventh Schedule, being goods manufactured or produced, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of excise, to be called the National Calamity Contingent Duty (the “NCCD”), at the rates specified in the said Schedule.
The NCCD chargeable on the goods specified in the Seventh Schedule shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

The provisions of the Central Excise Act and the Rules made thereunder (including those relating to refunds and exemptions from duties and imposition of penalty) shall, as far as may be, apply in relation to the levy and collection of the NCCD as they apply in relation to the levy and collection of the duties of excise on such goods under the Central Excise Act or Rules, as the case may be.

4. **Additional duty on textile and textile articles**
   Additional duty of excise is levied and collected on textile and textile articles under s 3(1) of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978.

5. **Duty on medicinal and toilet products**
   A duty of excise is imposed on medicinal preparations under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

6. **Additional duty on mineral products**
   Additional duty on mineral products (viz., motor spirit, kerosene, diesel and furnace oil) is payable under the Mineral Products (Additional Duties of Excise and Customs) Act, 1958.

7. **Additional excise duty on pan masala and tobacco products**
   Additional duty of excise by way of surcharge has been imposed under cl 85 of the Finance Act, 2005 w.e.f 01.03.2005.

**22. Registration under the Central Excise Act**

The following categories of persons require registration under the Central Excise Act read with the Central Excise Rules, 2002:

(i) Every manufacturer of dutiable excisable goods.

(ii) First- and second-stage dealers (including manufacturer’s depots and importers) desiring to issue CENVAT invoices.

(iii) Persons holding warehouses for storing non-duty paid goods.

(iv) Persons who obtain excisable goods for availing end-use based exemption.
(v) Exporter-manufacturers under rebate/bond procedure; Export Oriented Units (EOUs) and Special Economic Zone (SEZ) units which have interaction with the domestic economy.

(vi) Registered importer issuing CENVATable invoice

Separate registration is required in respect of separate premises (factory, depot, godown, etc.) except in cases where two or more premises are actually part of the same factory (where processes are interlinked) but are segregated by public road, canal or railway line. In the case of textiles, a single registration will do for all the premises listed therein.

23. Persons Exempted from Registration

The following categories of persons are exempted from registration:

»» Manufacturers of goods which are chargeable to Nil rate of duty or are fully exempted.

»» Manufacturers of goods which are exempted on the basis of “value of clearances” made in a financial year and remain under the exemption limit (SSI). In cases where the value of clearances excluding export turnover in the current financial year exceeds Rs 90,00,000 (Indian Rupees Nine Million), the assessee has to file a declaration prescribed under Notification No. 36/2001-C.E. (N.T.), dated June 26, 2001 for getting exempted. In other words, no declaration is required to be filed if the value of such clearances is below Rs 90,00,000 (Indian Rupees Nine Million).

»» Persons manufacturing excisable goods under the Customs warehousing procedures provided final products including scrap are exported and no duty drawback is claimed.

»» Wholesale traders or dealers of excisable goods (except first-stage dealer, second-stage dealer and depot).

»» In respect of ready-made garments, the job-worker need not get registered if the Principle manufacturer undertakes to discharge the duty liability.

»» Approved/licensed units in SEZs and 100% EOU units. However, if the SEZ units, or as the case may be, EOUs are having clearances in or procurement from the Domestic Tariff Area (DTA), such units would not be eligible to avail exemption from registration.
24. Liability to pay duty is on the manufacturer

The manufacturer of excisable goods or the person who stores such goods in a warehouse shall be liable to pay the central excise duty leviable on excisable goods.

25. Valuation of excisable goods

Excise duty is payable on any one of the following criterion:

»» As a percentage of tariff value fixed under s 3(3) of the Central Excise Act;
»» Based on annual production capacity under s 3A1 of the Central Excise Act;
»» As a percentage of the assessable value fixed under s 4 of the Central Excise Act;
»» Based on the Maximum Retail Price (MRP) under s 4A of the Central Excise Act. The goods covered under MRP-based valuation are those goods which are governed by the provision of Legal Metrology Act, 2009 notified w.e.f. 01.03.2011 and Rules framed thereunder;
»» Specific duty based on criteria, viz, weight, measure, volume, etc (viz, cigarettes, sugar, cement clinkers, marble slabs and tiles, etc).

26. Rate of Central Excise Duty

Rates of central excise duty are specified in the First Schedule to the CETA. The rates of special excise duty are specified in the Second Schedule to the CETA. However, w.e.f. 01.03.2006, all goods have been exempt from Special Excise Duty. The Schedule to the CETA contains unique 8-digit code for all excisable goods. It is aligned with customs tariff and is based on the International Trade Classification Harmonised System of Nomenclature [ITC (HS)].

27. Classification of Goods

- The CETA consists of XX sections and 96 chapters. A section is a grouping of a number of chapters which codify a particular class of goods. The section notes explain the scope of chapters/headings, etc. The chapters consist of chapter notes, brief description of commodities arranged according to HSN

---

1 Inserted w.e.f. May 10, 2008
Numbers, which are allotted in the schedules either in four digits or in six digits or in eight digits. Every four-digit code is called a “heading” and every six-digit code is called a “subheading” and the eight-digit code indicates the “specific commodity number”.

• The process of arriving at a particular heading/sub-heading/specific commodity number, either at the four-digit or at the six-digit or at the eight-digit level for a commodity in the Tariff Schedule is called “classification”. This helps in determining the rate of duty leviable as prescribed by the law.

• Further, classification of goods under a particular tariff heading is governed by a set of General Interpretative Rules, which form an integral part of the CETA. According to these Rules, classification is to be determined according to the terms of the headings or sub-headings or chapter notes.

• Choosing the right heading or sub-heading of the tariff and determining the applicable rate for the particular goods is commonly referred to as classification of goods.

**Exemption from excise duty**

• Under s 5A of the Central Excise Act, the Central Government has the power to grant exemption, full or partial, from payment of duty either generally by issue of a Notification or in a specific case of an exceptional nature, by means of a special order. The power is exercisable in public interest.

**Small-scale industry and excise exemption**

• For the purpose of promoting Small Scale Industrial (SSI) units, excise duty exemption has been granted to such units.

• For the purpose of excise duty, a manufacturing unit shall be eligible to claim exemption as an SSI unit if the turnover of such manufacturing unit is less than Rs 4,00,00,000 (Indian Rupees Forty Million) during the previous financial year. Further, turnover of up to Rs 1,50,00,000 (Indian Rupees Fifteen Million) is fully exempted from excise duty provided CENVAT Credit is not availed on inputs, etc. SSI units do not require registration until the threshold limit is crossed.
• However, a person has the option not to avail this exemption. Such a person should intimate his intention of not availing exemption before removing goods on the payment of duty. In such a case, the person can pay normal rate of duty and avail credit and such option cannot be withdrawn during the financial year.

**Manner of payment of excise duty**

• The excise duty is to be paid on monthly basis by the fifth day of the succeeding month (sixth day of the following month in case of e-payment through internet banking) except for the month of March when duty is to be paid by the 31st day of March.

• Electronic payment (e-payment) of excise duty using the internet banking facility has been made mandatory for assesses w.e.f. 1.10.2014.

• The buyers, on the basis of tax invoice issued by the manufacturers, would be allowed to avail CENVAT credit in respect of the duty paid/payable on such goods immediately on receipt of the goods by them.

**Advance ruling**

• Advance rulings enable a non-resident investor to know in advance the central excise duty liability on the proposed imports into India and proposed exports from India.

• Advance ruling means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay central excise duty in relation to the proposed imports into or exports from India, by the applicant.

• Authority for Advance Rulings for Excise and Customs (AAR) is meant to provide binding ruling on the important issues so that prospective investors will have a clear indication of their customs duty liability in advance. It assures the applicant of the finality of the customs duty liability.

• The Central Excise (Advance Rulings) Rules, 2002 notified vide Notification No. 28/2002-C.E. (N.T.) dated August 23, 2002 as amended provide for the format to be used for filing an application.
**Persons eligible to apply for advance ruling**

(i) A non-resident setting up a joint venture in India in collaboration with a non-resident or a resident;

(ii) A resident setting up a joint venture in India in collaboration with a non-resident;

(iii) A [Indian] wholly owned subsidiary Indian company, of a foreign company, which the holding company is a foreign company, who or which proposes to undertake any business activity in India;

(iv) A joint venture in India; and

(v) A resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under s 23C of the Central Excise Act. The notified class of person also includes (i) the limited liability partnership as defined in cl (n) of sub-s (1) of the s 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or (ii) limited liability partnership which has no company as its partner; or (iii) the sole proprietorship; or (iv) one person company;

**Issues on which advance rulings can be sought**

The question on which the advance ruling is sought shall be in respect of:

(a) classification of goods under the CETA;

(b) applicability of a notification issued under s 5A(1) of the Central Excise Act having a bearing on the rate of duty;

(c) the principles to be adopted for the purposes of determination of value of the goods under the provisions of the Central Excise Act;

(d) notifications issued in respect of duties of excise under the Central Excise Act, the CETA and any duty chargeable under any other law for the time being in force in the same manner as duty of excise leviable under the Central Excise Act;

(e) admissibility of credit of excise duty paid or deemed to have been paid on the goods used in or in relation to the manufacture of the excisable goods; and

(f) determination of the liability to pay duties of excise on any goods under the Central Excise Act.
28. Administration

Central excise law is administered by the Central Excise Commissionerates functioning under the Central Board of Excise & Customs (CBEC), Department of Revenue, Ministry of Finance, Government of India.

Central Sales Tax/Value Added Tax

29. Central Sales Tax

Introduction

The Central Sales Tax Act, 1956 (the CST Act) is an Act of the Parliament to formulate the principles for determining when sale or purchase of goods takes place in the course of inter-state trade or commerce. It provides for levy and collection of tax on such inter-state sale of goods. It also formulates principles for determining when sale or purchase of goods takes place outside a state or in the course of import into or export from India. It specifies and declares certain goods to be of special importance in inter-state trade and commerce and specifies in relation to them the restrictions and conditions to which the state sales tax laws shall be subject.

Principles for determining inter-State sales

Section 3 of the CST Act enunciates the principles when sale or purchase of goods can be said to have taken place in the course of inter-State trade or commerce. It provides that sale or purchase of goods shall be deemed to be an inter-state sale or purchase if such sale or purchase either:

(a) occasions the movement of goods from one state to another; or
(b) is effected by transfer of documents of title to the goods during the movement from one State to another.

It is provided that if the movement of goods commences and terminates in the same State, it shall not be an inter-state transaction merely because in the course of such movement the goods pass through the territory of another State.

It is also provided that where the goods are delivered to a carrier or other bailee for transmission, the movement of goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee.
Thus, for an inter-state sale or purchase, material fact is the movement of goods from one State to another, as a result of sale. Consequently, the movement of goods should arise from or have a nexus to the sale. Similarly, inter-state sale also materializes when the document of the title to the goods is transferred during the movement of goods from one State to another.

**Principles for determining a sale outside the State**

Section 4 of the CST Act provides that when a sale or purchase of goods is determined to take place inside a state such sale or purchase shall be deemed to have taken place outside all other states. The said section also provides that sale or purchase shall be deemed to take place inside a state if the goods are within the state:

(a) In the case of specific or ascertained goods, at the time the contract of sale is made; and

(b) In the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer.

**Principles for determining sale or purchase in the course of import or export**

Section 5 of the CST Act provides that:

(i) Sale or purchase of goods is deemed to take place in the course of export only if the sale or purchase either occasions such export or is effected by transfer of documents of the title to the goods after the goods have crossed the custom frontiers of India.

(ii) Sale or purchase of goods is deemed to take place in the course of import of the goods into the territory of India, if the sale or purchase either occasions such import or is effected by a transfer of documents of the title to the goods before the goods have crossed the customs frontiers of India.

**Liability to Central Sales Tax**

Central sales tax is levied on inter-state sales. However, second or subsequent sale in a continuous chain is exempted subject to certain condition. No tax is payable on export sales or sales outside the state.
Registration

**Compulsory registration**

Every dealer effecting an inter-state sale is liable to pay CST. Such a dealer liable to pay CST is required to apply for and obtain registration certificate under s 7(1) of the CST Act.

**Voluntary registration**

A dealer not liable to pay CST, for the reason that he is not effecting inter-state sales, may need to obtain registration under the CST Act if he is effecting inter-state purchases. For this purpose, s 7(2) provides for ‘voluntary registration’ to a dealer if he is holding a registration certificate under the local sales tax law.

30. **Value Added Tax**

Proceedings alongside the path of liberalisation and economic reform, the Government, way back in 2003, has introduced a much simpler and effective tax system in the form of Value Added Tax (VAT) across twenty-nine states and seven union territories in the country. In so far as VAT is concerned, presently, the states are empowered to levy VAT in their respective state jurisdiction. VAT is known across the world for eliminating a cascading effect associated with the chargeability of sales tax on transaction related to intra-state sales. Haryana was the first state to adopt VAT in the year 2003, Uttar Pradesh being the last to transit to VAT system in 2008.

Introduction of VAT has been stated to be a step towards a single Goods and Sales Tax (GST) regime whereby it is proposed that in the years to come all the central levies and state levies will merge into a single levy in the form of GST.

VAT is charged as a percentage of prices at which goods are sold/ transacted and it is imposed at each stage of transaction in the production and distribution chain. Presently, there are different rates of VAT notified for each commodity by the respective state governments and it may vary from 5% to 14.5%, with exemption provided on necessary items.

It is a general consumption tax that applies, in principle, to all commercial activities involving the production and distribution of goods. VAT is known to be a consumption tax because it is borne ultimately by the final consumer. VAT is, as such, levied at every point in the series of sale by the registered dealer with the provision of credit of input tax paid at the previous point of purchase by the state registered dealer. This mechanism ensures tax neutrality regardless of number of transaction involved in the entire chain. However, no input tax credit is available in case of purchases made on inter-state basis. Nonetheless, for a
seller, in case of inter-state sales, he is entitled to claim set off of input tax credit after partially reversing the same in the state from where such goods have moved.

**CENVAT Credit Scheme**

With effect from September 10, 2004, the Government has notified the CENVAT Credit Rules, 2004 (CCR), which deals with availment and utilisation of credit of duties and taxes, viz, central excise, service tax, education cess, etc.

31. Credit of duty paid on inputs and input services

- The Scheme of granting credit of duty/tax paid on inputs, capital goods and input services is commonly known as the CENVAT Credit Scheme. A manufacturer or service provider has to pay excise duty or service tax as per normal procedure on the basis of an assessable value. However, a manufacturer or service provider gets credit of duty paid on inputs, capital goods or, as the case may be, service tax paid on input services. Thus, the manufacturer or the service provider actually ends paying the incremental excise duty/service tax (ie, the difference between the excise duty/service tax charged on clearance of final goods or provision of taxable services and the excise duty/service tax paid on inputs/input services).

“Inputs” goods eligible for CENVAT Credit

- **In case of a manufacturer:** The manufacturer is entitled to take credit of excise duty paid on (a) all goods used in the factory by the manufacturer of the final product; (b) any goods including accessories cleared along with final product, the value of which is included in the value of the final products; and (c) all goods used for generation of electricity or steam for captive use.

Light Diesel Oil (LDO) and motor spirit (petrol) is not available as CENVAT Credit, even if these are used as raw materials or as fuel. Similarly any goods used for construction of a building or civil structure or laying of foundation or making of structures for support of capital goods is outside the purview of CENVAT credit scheme. Motor vehicles and any goods used primarily for personal use or consumption of any employee have been excluded from the definition of inputs [r 2(k)(i) of CCR].
• **In case of a service provider**: The service provider is entitled to take credit of the inputs used directly for providing output services. However, HSD, LDO and motor spirit (petrol) are not eligible as ‘inputs’. Similarly any goods used for construction of a building or civil structure or laying of foundation or making of structures for support of capital goods is outside the purview of CENVAT credit scheme. Motor vehicles and any goods used primarily for personal use or consumption of any employee have been excluded from the definition of inputs [r 2(k)(ii) of CCR].

‘Input services’ eligible for CENVAT Credit

• A manufacturer/service provider will be entitled to credit of service tax paid by him on input services which are used by him directly or indirectly in or in relation to manufacture of final product/provision of output services. This would include even services which are received prior to commencement of manufacture/ provision of output services. In addition to this, services like advertising, accounting, auditing, storage, transport, legal services, etc, which are not directly related to manufacture/provision of output services but are related to the sale of manufactured goods/provision of output services, would also be permitted for credit. However, services used for construction of a building or a civil structure or laying of any foundation for support of capital goods and services used primarily for personal use or consumption of employer have been excluded from the definition of input services [r 2(l) of CCR].

Capital goods eligible for CENVAT Credit

• Capital goods (machinery, plant, spare parts of machinery, tools, dies, etc) as defined in r 2(a) of the CCR, used for manufacture of final product and/or used for providing output taxable services, will be eligible for CENVAT Credit. Capital goods should be used in the factory. Under the CENVAT Credit scheme, 50% credit is available in the year in which the capital goods received in a factory or in the premises of the provider of output services at any point of time and balance in subsequent financial year or years [r 4(2) of CCR].

• However, the CENVAT Credit in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount
of duty on such capital goods, which the manufacturer or provider of output services claims as depreciation under s 32 of the Income-tax Act, 1961 [r 4(4) of CCR].

32. Compliances

- In terms of r 9A(1) of CCR, a manufacturer of final products is required to furnish annually by 30th April of each financial year, a declaration in Form ER-5, in respect of each of the excisable goods manufactured or to be manufactured, the Principle inputs, etc.

- In terms of r 9A(3) of CCR, a manufacturer of final products is required to furnish within 10 days from the close of each month, to the Superintendent of Central Excise, a monthly return in Form ER-6, in respect of information regarding the receipt and consumption of each Principle input with reference to the quantity of final products manufactured by him.

- In terms of r 9(7) of CCR, a manufacturer of final products is required to file a monthly return, in Form ER-6, within 10 days from the close of each month to the Superintendent of Central Excise. A manufacturer or service provider cannot avail CENVAT credit after period of one year from issuance on invoice or any other documents referred in r 9(1) of CCR.

Goods and Services Tax

33. Introduction

It is speculated that Goods and Services Tax will be introduced in India in April 2016. The Constitution (One Hundred and Twenty Second Amendment) Bill, 2014 was introduced in the Lok Sabha on 18.12.2014. The Bill makes enabling provisions for introduction of GST. As per Statement of Objects and Reasons appended to the Bill, the object to have common national market and avoid cascading effect of taxes.

The model of GST proposed to be adopted in India is one of Dual GST, whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax
(SGST) will be levied on the taxable value of every transaction of supply of goods and services. The taxes which are proposed to be subsumed under GST are as follows:

<table>
<thead>
<tr>
<th>Subsumed under CGST</th>
<th>Subsumed under SGST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Excise Duty</td>
<td>VAT / Sales tax</td>
</tr>
<tr>
<td>Additional Excise Duties</td>
<td>Entertainment tax</td>
</tr>
<tr>
<td>Excise Duty-Medicinal and Toiletries Preparation Act</td>
<td>Luxury tax</td>
</tr>
<tr>
<td>Service Tax</td>
<td>Taxes on lottery, betting and gambling</td>
</tr>
<tr>
<td>Additional Countervailing Duty (CVD)</td>
<td>State Cesses and Surcharges</td>
</tr>
<tr>
<td>Special Additional Duty of Customs - 4% (SAD)</td>
<td></td>
</tr>
<tr>
<td>Surcharges and cesses</td>
<td>Entry tax not in lieu of Octroi</td>
</tr>
</tbody>
</table>

Goods and Services Tax means a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption.\(^1\) The word used in the Bill is ‘supply’ and not ‘sale’. Thus, stock transfers, branch transfers will also get covered under GST net. ‘Services’ has been defined to mean anything other than goods.\(^2\) GST is consumption based tax, ie, tax will be payable in the State in which goods and services are to be consumed.

### 34. Expected rates of GST

The rates of GST are not notified and there are various rates being discussed. Initially, the rate envisaged was 16% [8% SGST, 8% CGST] and 16% IGST. The Committee of State Finance Ministers has proposed CGST of 12.77% and SGST of 13.91%, ie, 26.68%. This may be on the basis that excise duty rate is 12.5% (currently) and general State VAT rate is about 15%, and thus the aggregate rate is expected to be around 24-27%.

### 35. Integrated GST for interstate transactions

In case of inter-state supply of goods and services, there will be integrated GST (IGST) imposed by Government of India.\(^3\) IGST will also be imposed on imports.\(^4\) The IGST rate, which is expected to be double the CGST rate, is

---

1. Proposed Article 366(12A) of Constitution of India
2. Proposed Article 366(26A) of Constitution of India
3. Proposed Article 269A(1) of Constitution of India
4. Proposed explanation to Article 269A(1) of Constitution of India
expected to be equal to SGST plus CGST rate. However, IGST rate will be same all over India and will not vary from state to state. Revenue from IGST will be apportioned among Union and States by the Parliament on basis of recommendation of Goods and Service Tax Council (GST Council).\textsuperscript{1} The advantage of IGST is that the taxes will move along with goods and services, eliminating need for obtaining refund of taxes in case of inter-state transactions.

36. \textbf{1\% Additional tax on supply of goods (ATSG) in interstate supply for two years}

1% tax will be imposed on inter-state supply of goods for two years or such period as may be recommended by GST Council.\textsuperscript{2} This tax is in lieu of present Central Sales Tax and no set off is available to the dealer for the additional tax.

37. \textbf{Goods and Service Taxes Council}

The GST Council is mainly a recommendatory body on various issues relating to GST.\textsuperscript{3} Decision in GST Council be taken with at least 75% of weighted average voting in favour of the decision. The Union Government will have 33.33% voting power and States will have 66.67% voting power.

38. \textbf{Registration number of assessee}

The registration number of dealer is expected to be passed on income tax PAN number. PAN is a 10-digit number. Further 3 to 5 digits will be added. Thus, each dealer will have 13/15 digit PAN-based registration number and each will have to obtain state wide registration.

39. \textbf{Value for purpose of GST}

Provision for valuation is expected to be on same line as per present Central Sales Tax/State Vat laws. However, it is envisaged that SGST and IGST will be on same ‘value’ and there will be no ‘tax on tax’ as at present, ie, SGST will be payable on ‘net value’ without addition of CGST in the ‘value’.

\begin{itemize}
\item[\textsuperscript{1}] Proposed Article 269A(2) and Article 270(1A) of Constitution of India
\item[\textsuperscript{2}] Proposed Section 18(1) of Constitution (Amendment) Bill, 2014
\item[\textsuperscript{3}] Proposed Article 279A(1) of Constitution of India
\end{itemize}
40. Electronic returns

The returns will be filed by dealer (on monthly basis). The return will contain details of invoices made on customers with their Tax Registration Numbers and tax paid. The return has to be filed along with payment of taxes.

41. Administration of taxes

CGST and IGST will be administered by the Central Government while SGST will be administered by respective State Governments. There will be separate returns, separate payment of taxes, separate assessments and may be even separate appeals.

by
Shammi Kapoor shammi@vaishlaw.com
Vishal Kumar vishal@vaishlaw.com
Purva Juneja purva@vaishlaw.com

Copyright Notice:
© 2015. India. All rights reserved with Vaish Associates Advocates, 1st & 11th Floors, Mohan Dev Building, 13, Tolstoy Marg, New Delhi-110001, India

Disclaimer:

The content of this guide is intended to provide a general guide to the subject matter. Specialist professional advice should be sought about your specific circumstances. The views expressed in this article are solely of the author of this article, which do not constitute or substitute professional advice.

Specific Questions relating to this article should be addressed to the author(s) or at delhi@vaishlaw.com