

Summary of Notifications, Circulars from 16th January 2016 to 15th February 2016

SERVICE TAX

1. Recommendation regarding valuation of flats for levy of Service Tax

Valuation method for flats handed over to land owners by builders/ developers as recommended by Education Guide 2012 (Para 6.2.1) and the CBEC *Circular No. 151/2/2012-ST dated 10.2.2012* are divergent in nature.

According to the CBEC Education Guide on Taxation of Services, 2012 value of construction service provided to land owner will be the value of the land when the same is transferred and the point of taxation will also be determined accordingly. However, *Circular No. 151/2/2012-ST dated 10.2.2012* states that value of land / development rights in the land may not be ascertainable ordinarily and therefore, value, in the case of flats given to the land owner, is determinable in terms of section 67(1)(iii) read with rule 3(a) of Service Tax (Determination of Value) Rules, 2006. Accordingly, the value of these flats would be equal to the value of similar flats charged by the builder/developer from the other of service receivers. Service tax is liable to be paid by the builder/developer on the 'construction service' involved in the flats to be given to the land owner, at the time when the possession or right in the property of the said flats are transferred to the land owner by entering into a conveyance deed or similar instrument(e.g. allotment letter).

Thus CBEC vide *Instruction F.No.354/311/2015-TRU Dated 20th January 2016* has clarified that in valuing the service of construction provided by a builder/developer to a landowner, who transfers his land/development rights to builder, for getting, in return, constructed flats/dwellings from builder/developer, the Service Tax assessing authorities should be guided by the said Board Circular dated 10.2.2012 and not the Education Guide.

[Instruction F.No.354/311/2015-TRU Dated 20th January 2016]

2. Exports - Rebate by way of refund of Service Tax – Notification No. 41/2012 –ST amended

CBEC vide *Notification No. 01/2016-Service Tax, Dated: February 03, 2016* has amended *Notification No. 41/2012 - ST, Dated: June 29, 2012* so as to allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods and to increase the refund amount commensurate to the increased service tax rate.

The schedule of rebate has been revised as follows:

S. No.	Old Rates	New Rates
i.	0.04	0.05
ii.	0.06	0.07
iii.	0.08	0.09
iv.	0.12	0.14

v.	0.18	0.21
vi.	0.20	0.23

[Notification No. 01/2016-Service Tax, Dated: February 03, 2016]

3. Refund of Swachh Bharat Cess to a unit located in a SEZ or Developer of SEZ

CBEC vide Notification No. 02/2016-Service Tax, Dated: February 03, 2016 has provided that the SEZ Unit or the Developer will be entitled to refund of the Swachh Bharat Cess paid on the specified services on which ab-initio exemption is admissible but not claimed. The refund of amount would be determined by multiplying total service tax distributed to SEZ/ developer by effective rate of Swachh Bharat Cess and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994 i.e. 14%.

[Notification No. 02/2016-Service Tax, Dated: February 03, 2016]

4. Service Tax & Cess for the purpose of Rebate of Service Tax to include Swachh Bharat Cess

CBEC vide Notification No. 03/2016-Service Tax, Dated: February 03, 2016 has amended the meaning of "service tax and cess" so as to include Swachh Bharat Cess therein for the purpose of Rebate of Service Tax paid for providing service exported in terms of rule 6A of the Service Tax Rules, 1994, to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified.

[Notification No. 03/2016-Service Tax, Dated: February 03, 2016]

CENTRAL EXCISE

5. Amendments in CENVAT Credit Rules

The CENVAT Credit Rules have been amended vide Notification Nos. 01/2016- CX (N.T) and 02/2016- CX (N.T), both Dated: February 03, 2016 as follows:

- a) For the purpose of definition of Input Services, *sales promotion* would include services by way of sale of dutiable goods on commission basis.
- b) The condition of allowing only 85% of CENVAT credit of the additional duty of customs paid under section 3(1) of the Customs Tariff Act, on ships, boats and other floating structures for breaking up falling under tariff item 8908 00 00 of the First Schedule to the Customs Tariff Act has been done away with.
- c) It has been provided that CENVAT Credit of any duty specified in Rule 3(1) will not be utilised for payment of the Swachh Bharat Cess levied under sub-section (2) of section 119 of the Finance Act, 2015.

[Notification Nos. 01/2016- CX (N.T) and 02/2016- CX (N.T), both Dated: February 03, 2016]

[Instruction F.No.390/Misc./163/2010-JC dated February 04, 2016]

CUSTOMS

6. All Industry Rates of Duty Drawback notified w.e.f. 11.02.2016

CBEC vide *Notification No. 22/2016-Cus., (N.T.), Dated: February 8, 2016* has notified the All Industry Rates of Duty Drawback effective from 11.02.2016 subject to the notes and conditions specified therein. The detailed rates and explanations can be obtained from www.cbec.gov.in.

[*Notification No. 22/2016-Cus., (N.T.), Dated: February 8, 2016; Circular No. 06/2016-Customs, Dated: February 09, 2016*]

VALUE ADDED TAX

NAGALAND VAT:

7. Road Permits (RP) to be mandatorily issued online w.e.f. 26.01.2016

With a view to further expand the e-Services for better service delivery, Nagaland Government has notified that all Road Permits (RP) shall be mandatorily issued online w.e.f. 26th January, 2016. The Road Permit shall be issued for the purpose of importing goods into the state as under:

- Personal use/ consumption;
- Use in setting up of an industrial unit;
- Use as raw materials directly in the manufacture of goods in an industrial unit;
- Use in operation of an industrial unit;
- Others: To be compulsorily specified by the applicant.

[*Notification No. CT/M/5/69(Pt) Dated 15th January, 2016*]

ODISHA VAT:

8. Composition Scheme for works contractor effecting sales by way of transfer of property in goods

Odisha Government vide *Notification No. 1457-FIN-CT1-TAX-0035-2015 dated 16th January, 2016* has provided a composition scheme for a dealer who has effected sales by way of transfer of property in goods under a works contract. Subject to the conditions specified in the notification, such dealer may in lieu of amount of tax (VAT), pay by way of composition as specified below:-

Nature of Works Contract	Composition tax rate (As % of turnover)	
	Scheme A	Scheme B
Every registered dealer engaged in execution of works contract of following categories and incidental or ancillary activities in connection with or thereto: <ul style="list-style-type: none"> • Civil Contracts; • Repair & maintenance of any moveable Property, including vehicles, AMCs & other similar contracts; • All other types of works contracts, including those involving moveable goods, not specified elsewhere in this notification. 	3%	6%
Every registered dealer engaged in,- <ul style="list-style-type: none"> • Printing and/or book-binding; • Textile processing such as dyeing, fabrication, tailoring, embroidery and other similar activities; • Electro plating, electro galvanizing, anodizing, powder coating and other similar activities; • Re-treading of old tyres. 	2%	4%

Scheme A : A registered dealer, at any time during the period for which he opts to avail this Scheme, shall not purchase or procure goods from any place outside Odisha **and** not sell or supply goods to any place outside Odisha.

However, he may procure his own Plant & Machinery and Equipments from outside Odisha, meant exclusively for use in execution of works contract by him or for inward transfer of stocks from other States or by way of imports.

Scheme B : A registered dealer opting to pay composition tax shall be entitled to purchase goods required for works contract in course of inter-State trade or commerce on the strength of his registration certificate or by inward transfer of stocks from other States or by way of imports from other countries solely for the purposes of utilizing the same in works contract in Odisha only.

Provided the dealer shall use the material or goods imported or procured from outside Odisha strictly for use in execution of the works contract.

[Notification No. 1457-FIN-CT1-TAX-0035-2015 dated 16th January, 2016]

9. Composition Scheme for the registered dealer who undertake construction of flats, dwellings or buildings etc.

Odisha Government vide *Notification No. 1461-FIN-CT1-TAX-0035-2015 dated 16th January, 2016* has provided a composition scheme for the registered dealer who undertake the construction of flats, dwellings or buildings or premises and transfer of property along-with land or interest underlying the land. Subject to the conditions specified in the

notification, such dealers may, in lieu of VAT, pay tax at the rate of 3.5% of the aggregate amount determined in the agreement or value determined for the purpose of Stamp Duty in respect of said agreement under the Odisha Stamp Rules, 1952, whichever is higher.

[Notification No. 1461-FIN-CT1-TAX-0035-2015 dated 16th January, 2016]

10. Amendment, omission and insertion of rules in Odisha Value Added Tax Rules, 2015

Following changes have been made in Odisha Value Added Tax Rules, 2015:

- (i) Rules 6, 9, 27, 27A, 30, 33, 40, 41, 45, 59, 65, 86 have been amended;
- (ii) Rule 8, 28, 32, 48 have been omitted;
- (iii) Rules 1A, 49A, 49B, 59A, 66A have been inserted.

[Notification No. 1465-FIN-CT1-TAX-0001-2013 dated 16th January, 2016]

MADHYA PRADESH VAT:

11. Amendment in Madhya Pradesh Value Added Tax Act, 2002.

The following amendments will come into force from the date of its publication in the Madhya Pradesh Gazette.

- (i) **Levy of Additional Tax:** A new **Section 9AA** has been inserted to levy additional tax at rate as may be notified by the State Government. It will be based on weight, volume, measurement on unit, on the sales of such goods specified in Schedule II, other than declared goods.
- (ii) **Waiver from submitting Affidavit and proof of registration fees:** Section 17 (Registration) have been amended so as to give waiver from submitting affidavit and proof of payment of registration fees.

[MADHYA PRADESH ACT No. 4 OF 2016]

JHARKHAND VAT:

12. Extension of date for applying and making payment under Karasamadhana Scheme, 2015.

Karasamadhana Scheme was introduced to allow partial waiver of arrears, penalty and interest payable upto the Assessment Years 2005-06. The Jharkhand Government has extended the following mentioned dates:

Last dates under the Scheme for	Extended Date	Earlier Dates
Filing application	15.03.2016	31.12.2015

Making payment	31.03.2016	28.02.2016
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[Order No. 98 dated 7th January, 2016]

ANDHRA PRADESH VAT:

13. Generation of e-CST Waybills/ CST statutory forms only for commodities which are mentioned in CST Registration Certificate

Andhra Pradesh Government has developed a system from 01.02.2016 by which a dealer would be able to generate e-CST Waybills only for commodities which are registered in the VATIS. Similarly, the dealers cannot generate eWaybills (VAT) for sensitive commodities, if the same are not registered in the VATIS.

All the dealers are required to follow the procedure mentioned in the given Circular for registering the additional Commodities by 31.01.2016, failing which they will not be able to generate CST e- Way Bills and Statutory forms.

[Circular No. CCTs Ref No.CCW/152/2015, dated 19th January, 2016]

14. Person/ authority notified for deducting tax

Andhra Pradesh Government vide *Notification (Commercial Taxes) dated 30th January, 2016* has notified a list of persons/authority for deducting tax from amounts payable to a dealer in respect of sale of any taxable goods effected by him and also on the amounts payable towards lease/hiring charges at rates of taxes prescribed in the notification.

[Notification (Commercial Taxes) dated 30th January, 2016]

15. Online registration to facilitate ease of doing business.

Andhra Pradesh Government has introduced online registrations by the prospective dealers, thereby dispensing with the manual filing of Registration applications in the offices of the CTO for ensuring ease in doing business.

Further to obtain registrations in a hassle free manner, the practice of pre-registration visits is required to be dispensed with. However, in order to check the bogus registrations particularly in hypersensitive and sensitive commodities, the timelines will be prescribed for conducting post registration advisory visits by the department officers.

[Circular No. CCTs Ref No.CCW/CS(1)/128/2015 dated 8th February, 2016]

16. Earlier guidelines for detention of goods by check post officials withdrawn

Earlier guidelines states that whenever check post officials notice irregularities in consignments in parcel lorries, they were directed to transfer the goods along with detention notice and other documents to the assessing authority for verification of

documents and to take appropriate action. The above instructions has been withdrawn. Now, they have to take action duly following the procedure prescribed under section 45 (establishment of check-post) of APVAT Act, 2005.

[Circular No. CCTs Ref No.ENFT/D2/611/2007 dated 9th February, 2016]

BIHAR VAT:

17. Amendment in Bihar Value Added Tax Rules, 2005.

Sub-rule (2)(b) of **Rule 14** has been substituted. Now, the value of stock transfers outside the State shall be arrived at after applying the following Formula-

$$R2 = [B \times I / P]$$

{Earlier formula was: $R2 = [4 \times B \div 100]$ }

Where,

R2 = reverse credit on account of stock transfers outside the state

B = total value of stock transfers outside the state

I = input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month

P = value of goods, other than goods specified in Schedule I, purchased during the month from within the State

Rule 17 (Refunds) has been omitted.

[Notification No. S.O. 12 Dated 13th January, 2016]

18. Amendment in Rate of surcharge, tax & time limit for interest on delayed refunds

Following Sections have been amended by the Ordinance No. 1, 2016 which shall come into force at once.

Increase in rate of Surcharge (Section 3A) : Every dealer liable to pay tax shall in addition pay a surcharge not exceeding 30% (earlier it was 20%) of the total amount of tax payable by him.

Increase in rate of tax (Section 14) : Tax shall be payable at the rate of 14.5% (earlier it was 13.5%) on the sale price of any goods which are not specified in Schedules I, II, III, IIIA and IV.

Interest on delayed refund(Section 27) : Now where the refund is not made within a period of 60 days (instead of 90 days) of the amount having become refundable then authority shall pay a simple interest of 6% p.a. or part thereof from the date immediately following the expiry of the period of 60 days to the date of the refund.

[Ordinance No. 1, 2016]

PUNJAB VAT:

19. Launching of Pilot Project for online issuance of 'C' forms in SAS Nagar, Mohali

The Department has launched a pilot project for online issuance of 'C' forms for Quarter-1 and Quarter-2 of financial year 2015-16 for District Mohali for the convenience of the dealers. Now onwards, dealer can simply enter his login ID and click on the link "Apply for Statutory Forms" to apply for 'C' forms.

[Public Notice by Department of Excise & Taxation]

RAJASTHAN VAT:

20. Amnesty Scheme 2016 to be effective upto 15.03.2016

Rajasthan Government vide *Notification No. F. 12(16) /FD/ TAX /2009-116 dated 21st January, 2016* has introduced Amnesty Scheme 2016 which provide for waiver of interest & penalty. To avail the benefit under the Scheme, the applicant is required to submit an application in Form AS-I appended to this Scheme to the assessing authority, along with detail of deposit of tax and/or penalty and/or interest, as the case may be, and proof of withdrawal of case from the concerned Court, Tax Board, or Appellate Authority, if applicable, up to 15.03.2016.

[Notification No. F. 12(16) /FD/ TAX /2009-116 Dated 21st January, 2016]

21. Information to be submitted by e-commerce companies

The e-commerce companies, transporters/ courier companies (effecting delivery) or intermediaries (receives any amount) who sold or purchased goods in the State through e-commerce is liable to furnish information in Form EL-1, EL-2 and EL-3 to AC/ Commercial Tax Officer within 15 days from the end of relevant month. In this regard, detailed process of functionality has been made available on the website www.rajtax.gov.in. It may be mentioned that the information for the month of January, 2016 is to be filed latest by 15.02.2016.

[Circular- No. 10/2015-16- No. F.16 (95)/Tax/CCT/14-15/2171 to 2178 Dated 28th January, 2016]

DELHI VAT:

22. Ratio for auto-downloading of central statutory forms has been revised from 60% to 45%.

Delhi Government has prescribed that the facility of auto-downloading of the forms shall not be available for the tax period where the ratio of sale to purchase, (including stock transfer and local transactions) falls below 45%. The purchase of capital goods has been kept out of the proposed mechanism which shall be available only to eligible dealers. The download of forms shall also be further subject to the following conditions:

- (i) Items should be allowed on the R.C.
- (ii) The dealer for whom forms are obtained should not be cancelled dealer.
- (iii) There is no adverse material on record.

[Circular No. F.3(556)/Policy/VAT/2015/1366-71 Dated 27th January, 2016]

23. Amendment in Rule 28 (Dealer's periodic Returns) of Delhi Value Added Tax Rules, 2005.

Sub-rule (3) of Rule 28 states that return DVAT-16 & DVAT-17 shall be furnished by transmitting the data in the return electronically on www.dvat.gov.in and thereafter submitting the Return Verification Form in Form DVAT-56, in duplicate. Such return and form shall be furnished within 28 days from the end of the tax period. On submitting of Form DVAT-56, the Commissioner shall issue the acknowledgement with signature and stamp on one copy of the said Form.

Now a proviso has been inserted in above sub-rule stating that Commissioner may by a notification require a dealer or class or classes of dealer to furnish return with digital signatures. Such dealers will not be required to submit Form DVAT-56 for acknowledgement of the return separately.

[Notification No. F.3(28)/Fin(Rev-I)2015-2016/dsvi/42 dated 11th February, 2016]

TAMIL NADU:

24. Exemption from tax on sale of goods to units located in SEZ

Tamil Nadu Government hereby makes an exemption of tax payable by any dealer on the sale of goods made to a registered dealer for the purpose of-

- setting up, operation and maintenance of a unit located in a SEZ in Tamil Nadu or
- for development, operation and maintenance of SEZ by a developer if such registered dealer is authorized to establish such units or establishments within SEZ or
- to develop, operate and maintain such SEZ by the Authority specified by the Government of India, subject to the following conditions, namely:-

The dealer should obtain and furnish a Certificate and the goods purchased are used only for the aforesaid purposes.

[Notification IV No. G.O. Ms.No. 15, Dated 29th January, 2016]

25. Amendment in Rules of Tamil Nadu Value Added Tax Rules, 2007.

Tamil Nadu Government vide Notification No. G.O. Ms.No. 18 dated 29th January, 2016 has amended following rules of Tamil Nadu Value Added Tax Rules, 2007:

- (i) Rule 4 - Application for Registration
- (ii) Rule 5 - Certificate of Registration
- (iii) Rule 6 - Accounts
- (iv) Rule 7 - Filing of Returns
- (v) Rule 9 - Tax deduction at source
- (vi) Rule 10 - Input Tax Credit

- (vii) Rule 11 - Refunds
- (viii) Rule 12A - Authority for Clarification and Advance Ruling
- (ix) Rule 14 - Appeal & Revision
- (x) Rule 15 - Check Post
- (xi) Rule 16A - Procedure for Filing Audit Report
- (xii) Rule 17 - Appearance by Authorised Representative
- (xiii) Rule 19 - Service of notices summons or orders
- (xiv) Rule 23 - Mode of Payment
- (xv) Rule 25 - Forms & their manners of filing

[Notification No. G.O. Ms.No. 18, Dated 29th January, 2016]

MAHARASHTRA VAT:

26. Modification in the list of documents required to be submitted along with the registration application

Maharashtra Government has given following relaxation in the documents to be uploaded at the time of online registration:

Scanned copy of-	Relaxation
PAN Card	If not available, details of PAN obtained from www.incometaxindiaefiling.gov.in may be accepted as a proof of PAN.
MOA or AOA in case of Company	<ul style="list-style-type: none"> • Copy of Form No. DIR 12 or list of present directors obtained from www.mca.gov.in; and • Copy of Certificate of Incorporation issued by registrar of Companies.
Proof for permanent residence address	<p>Following shall also be allowed as a proof:</p> <ul style="list-style-type: none"> • Latest copy of MTNL/ BSNL landline bill. • 1st page of saving bank accounts' passbook or certificate issued by nationalized bank showing applicant's address. • Latest copy of bill of domestic gas connection.
Proof of place of business	A new category has been added for the <u>online sellers working for online selling portals</u> shall submit a copy of Agreement with main company (online platform).

[Trade Circular No. 4T of 2016 dated 5th February, 2016]

27. Guidelines for granting refund to the certain class of dealers within stipulated time limit

Maharashtra Government has provided following time limit for granting refund to Dealers eligible to file Audit Report in Form e-704, Dealers not eligible to file Audit Report and PSI cases:

Time Limit-	Condition-
Within 45 days from due date for filing of Audit Report.	Dealer is eligible to file Audit Report & refund application is filed before due date of filing Audit Report.
Within 45 days from the due date for filing of Audit Report.	Dealer is not eligible to file Audit Report.
Within 45 days from the due date for filing of refund application in Form e-501.	Dealer is eligible to file Audit Report and refund application is filed after due date of filing of Audit Report.

[Trade Circular No. 5T of 2016 dated 6th February, 2016]

KARNATAKA VAT:

28. Electronically submission of appeal on <http://vat.kar.nic.in>

Karnataka Government has notified, with immediate effect, that any person objecting to any order or proceedings affecting him shall submit an appeal electronically through the website <http://vat.kar.nic.in> as per the instructions contained in the user manual hosted onto the website available under "Reports and Help".

[Notification No. EG1.CR-23/2015-16 dated 20th January, 2016]

TELANGANA VAT:

29. Date of mandatory usage of e-waybills by VAT dealers extended to 1st April, 2016

Telangana Government has extended the date for mandatory usage of e-waybills from 01.02.2016 to 01.04.2016. It has also been specified that no more further extension will be given and all dealers should make necessary arrangements for use of e-waybills mandatorily w.e.f. 01.04.2016.

[Circular-CCT's Ref No. Enft/D2/172/2010 dated 3rd February, 2016]