

## Summary of Notifications, Circulars from 16<sup>th</sup> March, 2016 to 15<sup>th</sup> April, 2016

### SERVICE TAX

#### 1. Point of Taxation in case of change in the liability or extent of liability under Reverse Charge to be Date of Invoice

CBEC vide [Notification No. 21/2016-Service Tax, Dated: March 30, 2016](#) has inserted a proviso in Rule 7 of Point of Taxation Rules, 2011 to provide that where there is a change in provisions relating to the services taxed under reverse charge/ partial reverse charge (service taken out of reverse charge application or change in % payable by recipient under reverse charge) but the service has already been provided, invoice has been issued and the payment has not been received, then in such cases the **point of taxation would be the date of issuance of invoice.**

[\[Notification No. 21/2016-Service Tax, Dated: March 30, 2016\]](#)

#### 2. Certain services exempted when provided by Government or a local authority

Central Government vide *Notification No. 22/2016-Service Tax, dated April 13, 2016* has provided the following amendments in Notification No. No.25/2012-Service Tax, dated the 20th June, 2012 i.e. under Mega Exemption:

Insertion/ Amendment\* of Entry No. Exemption of certain services provided by Government or a local authority:

Insertion/ Amendment* of Entry No.	Exemption of certain services provided by Government or a local authority:
39*	To any function entrusted to a municipality under article 243W of the Constitution.
54	To another Government or local authority.
55	By way of issuance of passport, visa, driving license, birth certificate or death certificate.
56	When the gross amount charged for such services does not exceed Rs. 5,000. However, in case where continuous supply of services then gross amount charged does not exceed Rs. 5,000 in a financial year.
57	Tolerating non-performance of a contract where consideration is in the form of fines or liquidated damages is payable.
58	Services required under any law for- <ul style="list-style-type: none"><li>• registration or</li><li>• testing, calibration, safety check or certification</li></ul>

	relating to protection or safety of workers, consumers or public at large.
59	By way of assignment of right to use natural resources to an individual farmer for the purposes of agriculture.
60	By governmental authority also by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution.
61	Assignment of right to use any natural resource where such right to use was assigned before the 1 <sup>st</sup> April, 2016. This exemption shall apply only to service tax payable on one time charge payable, in full upfront or in installments.
62	Allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the financial year 2015-16 on payment of license fee or spectrum user charges.
63	Deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges (MOT).

For Entry No. 54 & 56:

These entries will not apply to the following services specified under clause (a) of Negative List:

- Speed Post
- Express parcel
- Postal & Rural life insurance

[Notification No. 22/2016-Service Tax, dated April 13, 2016]

### **3. Inclusion of interest amount or other consideration payable to Government or a local authority by a business entity**

Clause (iv) of Rule 6(2) of Service Tax (Determination of Value) Rules, 2006 provides for exclusion of interest on delayed payment of any consideration for the provision of services or sale of property (movable or immovable) while determining the value of taxable services. Central Government vide *Notification No. 23/2016-Service Tax, dated April 13, 2016* has inserted proviso under the said clause to state that the above exclusion shall not apply to any service provided by Government or a local authority to a business entity where payment for the service is allowed to be deferred on payment of interest or any other consideration.

[Notification No. 23/2016-Service Tax, dated April 13, 2016]

**4. Point of Taxation under reverse charge when services are provided by Government or local authority to any business entity**

The following proviso has been inserted under Rule 7 (i.e. point of taxation in case of reverse charge) of Point of Taxation Rules, 2011 vide *Notification No. 24/2016-Service Tax, date: April 13, 2016* which shall come into force from the date of its publication in the Official Gazette:

In case where the services are provided by the Government or local authority to any business entity then the point of taxation shall be the earlier of the dates on which-

- any payment is demanded in part or full as specified in the invoice, bill, challan or any other document issued or
- payment for such services is made.

*[Notification No. 24/2016-Service Tax, date: April 13, 2016]*

**5. Clarification levy of Service Tax on the services provided by Government or a local authority to business entities**

Central Government (TRU) vide *Circular No. 192/02/2016-Service Tax, dated April 13, 2016* has provided following clarifications for various issues related to levy of service tax on the services provided by Government or Local Authority to business entities:

- It clarifies that taxes, cesses or duties levied are not consideration for any service provided and hence not leviable to Service Tax.
- Fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to Service Tax.
- Activities undertaken by Government or a local authority against a consideration constitute a service and the hence liable to Service Tax.
- Various illustration explaining how the CENVAT Credit is to be availed on Service Tax paid for assignment of right to use natural resources have also been provided under the said circular.

*[Circular No. 192/02/2016-Service Tax, dated April 13, 2016]*

## **CENVAT CREDIT RULES**

**6. Amendments in Rule 4 of CENVAT Credit Rules, 2004**

CBEC vide *Notification No. 24/2016-Central Excise (N.T.), dated April 13, 2016* has provided following amendments in Rule 4(7) (Conditions for allowing CENVAT Credit) of CENVAT Credit Rules, 2004:

- The manufacturer or the service provider shall not take CENVAT credit after 1 year of the date of issuance of invoice/ bill/ challan except in case of services provided by Government, local authority or any other person by way of assignment of right to use any natural resource.
- CENVAT Credit of service tax shall be spread evenly over a period of 3 years on the one-time charges payable in full up front or in installments for the service of assignment of the right to use any natural resource by the Government, local authority or any other person. Earlier vide *Notification No. 13/2016-Central Excise (N.T.) dated, March 01, 2016*, the CENVAT Credit had to be spread over the period for which the right to use was assigned.

*[Notification No. 24/2016-Central Excise (N.T.), dated April 13, 2016]*

## **7. Amendment in Rule 6 of CENVAT Credit Rules**

Rule 6 of CENVAT Credit Rules relating to reversal of credit was amended vide *Notification No. 13/2016- Central Excise (NT), Dated: March 1, 2016* to provide that a manufacturer/ provider of output service manufacturing/ providing taxable as well as exempted goods/ services may pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services subject to a maximum of the total credit available in the account of the assessee at the end of the period to which the payment relates.

However, para h(iii) of Annexure II of *F. No. 334/8/2016-TRU dated 29th February 2016* has explained this amendment by stating that the option to pay an amount equal to 6% of value of the exempted goods and 7% of value of the exempted services is subject to a maximum of the total credit taken or pay an amount as determined under sub-rule (3A).

Now, the Central Government has issued *Notification No. 23/2016-Central Excise (N.T.), Dated: April 1, 2016* and inserted an amendment to Rule 6(3) of CENVAT Credit Rules to provide that the cap on the said reversal required will be subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period.

Further, Rule 7B of CENVAT Credit Rules has also been amended to provide that for distribution of credit on inputs by warehouse of manufacturer, the manufacturer must receive inputs under cover of "Documents specified in Rule 9". Prior to this amendment, the warehouse could pass on credit of inputs received under cover of invoice issued under Central Excise Rules, 2002 only. With this amendment, credit can be passed even on imported inputs and inputs received from dealers.

*[Notification No. 23/2016-Central Excise (N.T.), Dated: April 1, 2016]*

## CENTRAL EXCISE

### 8. Constitution of sub-committee of the High Level Committee for Imposition of Central Excise duty on jewellery

CBEC vide *Circular No. 1021/9/2016-CX, Dated: March 21, 2016* has provided that in order to tackle the issues related to compliance procedure for the excise duty, including records to be maintained, forms to be filled including Form 12AA, operating procedures and any other issued that may be relevant, a Sub-Committee of the High Level Committee to Interact with Trade & Industry on Tax Laws has been constituted.

It would be chaired by Sh. Ashok Lahiri with 3 industry representatives, legal expert, one officer nominated by Ministry of Commerce & Industry and CBEC representative(s). The Sub-Committee will submit its report within 60 days of its constitution.

The key guidelines for jewellers include:

- ✓ Payment of excise based on first sale invoice value
- ✓ CBEC not to challenge valuation of product given in the invoice (weight of gold and carat weight of diamonds and precious gemstone is mentioned on invoice)
- ✓ Excise officials not to visit shops/ residence/manufacturing unit
- ✓ No arrests or criminal prosecution
- ✓ No search and seizure of stock
- ✓ Exporters to be allowed on self-declaration on submission of LUT with need to ratify with excise.
- ✓ Exporters will be allowed to export on self-declaration and submission of LUT to customs without the need to get LUT ratified by central excise. Prevailing system will continue.
- ✓ The registration of the establishment with the central excise department can be taken within 60 days from 1st March, 2016. However, the liability for payment of central excise duty will be with effect from 1st March, 2016, and as a special case for the month of March, 2016, the assessee jewellers will be permitted to make payment of excise duty along with the payment of excise duty for the month of April, 2016.

*[Circular No. 1021/9/2016-CX, Dated: March 21, 2016]*

**9. Regarding adjudication of Show Cause Notices issued on the basis of CERA/CRA objection**

The CBEC vide *Circular No. 1023/11/2016-CX dated April 8, 2016* has provided the detailed guidelines to be followed while adjudicating the Show Cause Notices issued on the basis of audit objections of Central Excise Revenue Audit (CERA) and Customs Revenue Audit (CRA), which is receipt audit wing of the Comptroller and Auditor General of India. Further, the procedure for dealing with audit objections raised by CERA/CRA has also been prescribed.

*[Circular No. 1023/11/2016-CX dated April 8, 2016]*

**10. Clarification regarding 'other persons' used in Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) of the Customs Act, 1962**

Section 28 provides for provision of deemed conclusion of proceedings which was introduced to bring closure to the cases where the dues to the Government could be realized without going through the process of adjudication and to cut the protracted litigation.

CBEC vide *Circular No. 11/2016-CUSTOMS, Dated: March 15, 2016* has clarified the word 'other persons' used in sub-section (2) & sub-section (6) of Section 28 as below:

The provision of deemed conclusion is contingent upon the person to whom a SCN has been issued for paying up all the dues of duty, interest and penalty. Therefore, 'other persons' imply persons to whom no demand of duty is envisaged with notice. Other persons who happen to be co-noticees in the SCN would be benefitted by the deemed closure in cases the compliance of conditions mentioned under said sub-sections in section 28 has been fulfilled by the main noticee. Further, all such cases where proceedings reach closure stage under the provisions of Section 28, an order to the effect must be invariably issued by the concerned adjudicating authority.

*[Circular No. 11/2016-CUSTOMS, Dated: March 15, 2016]*

## **11. Amendments in Customs (Fees For Rendering Services by Customs Officers) Regulations, 1998**

CBEC vide *Notification No. 46/2016-CUSTOMS(N.T.), Dated: April 01, 2016* has amended Regulation 3 of Customs (Fees For Rendering Services by Customs Officers) Regulations, 1998 to provide that where the working hours in respect of clearance of cargo in Customs ports or Customs airports, has been prescribed as twenty- four hours on all days for customs clearance, no fee shall be leviable in such locations for the services rendered by Appraisers Superintendent Customs Preventive and Superintendent Central Excise/ Air Customs Officers, Examiners Preventive Officers and Inspectors of Central Excise/ Class IV Staff.

*[Notification No. 46/2016-CUSTOMS (N.T.), Dated: April 01, 2016]*

## **VALUE ADDED TAX**

### **RAJASTHAN VAT:**

#### **12. Effective date for filing Form EL-1, EL-2 and EL-3 has been extended from 01.02.2016 to 01.03.2016**

The Rajasthan Government has extended the effective date, for furnishing the information of every month or part thereof in Form EL-1, EL-2 and EL-3 to the Assistant Commissioner/ CTO, within 15 days from the end of the relevant month through [www.rajtax.gov.in](http://www.rajtax.gov.in) to 01.03.2016 . These Forms are to be filed by the following persons effecting transactions with in the State of Rajasthan through electronic media:

- (i) person effecting sale or purchase; or
- (ii) transports, receives for transportation or delivers goods; or
- (iii) receives any amount for the goods sold or purchased

*[Notification No. F.16(708)TAX/CCT/2015/7669 Dated 15th March, 2016]*

#### **13. Amendments made in amnesty scheme**

Following amendments have been made by the Rajasthan Government vide *Notification No. F.12(11)FD/Tax/2016-259 dated 30th March, 2016* in amnesty scheme:

- Earlier this Scheme was effective upto 31.03.2016 but now the date has been extended upto 31.05.2016.

- An application for rectification in respect of any demand which is pending before the assessing authority shall be disposed of within 7 days of submission of AS-I or upto 31.05.2016 (earlier it was 31.03.2016), whichever is earlier.
- For availing the benefit of amnesty scheme, an application in Form AS-I has to be submitted to assessing authority upto 31.05.2016 (earlier 3.03.2016) along with the details of tax payment/ penalty/ interest and proof of withdrawal of case if any.

*[Notification No. F.12(11)FD/Tax/2016-259 dated 30th March, 2016]*

#### **14. Amendment in the Rajasthan Value Added Tax Act, 2003**

Following Sections of Rajasthan Value Added Tax have been amended vide *Act No. 5 of 2016*:

##### **Section 2 (Definitions)- Capital Goods**

It has been clarified that generating set for generation of electrical energy to be used in manufacturing shall be treated as capital goods.

##### **Section 13 (Authority competent to grant registration)**

Intimation regarding change in principal place of business outside the territorial jurisdiction of the present assessing authority shall be given within 30 days as against earlier period of 60 days. However, if the permission is not granted within 30 days from the date of the application then it shall be deemed to have been granted.

##### **Section 24 (Assessments)**

A proviso has been inserted under sub-section (5) providing that the assessment for the year 2013-14 shall be made up to 31.07.2016.

##### **Section 33 (Rectification of a mistake)**

Under sub-section (3) the period of 1 year for the rectification of mistake has been reduced to 6 months from the date of presentation of application to the assessing authority. Further, the application pending before assessing authority on 1.04.2016 shall be disposed of within 30.09.2016 or within 1 year from the date of presentation, whichever is earlier.

##### **Section 51A (Power of State Government to waive penalty and interest in certain cases)**

Now State Government has been empowered to reduce or waive late fee payable for any period by any class of dealers in addition to penalty and interest.

##### **Section 53 (Refund)**

A sub-section (3A) has been inserted providing that the Commissioner of VAT has been empowered to grant refund in cases where tax amount has been wrongly deposited or in excess of the amount due.



[Act No. 5 of 2016]

## **GOA VAT:**

## **DELHI VAT:**

### **15. Extension of date for filing Form GE-II for the first 3 quarters of FY 2015-16 upto 23.03.2016**

Delhi Government has extended the date for filing Form GE-II for the first 3 quarters of current FY (i.e. 01.04.2015 to 30.06.2015; 01.07.2015 to 30.09.2015 and 01.10.2015 to 31.12.2015) from 15.03.2016 to 23.03.2016.

Online Form GE-II is to be furnished on quarterly basis by all Government Entities including Corporation or Board having their offices in Delhi for the purchases affected by them, for consumption or use by them, from the dealers registered and having a valid TIN/ Registration Number.

[Notification No. F.3(619)/Policy/VAT/2016/1671-1684 dated 15<sup>th</sup> March, 2016]

### **16. Extension of date for filing Form CR-II for the first 3 quarters of FY 2015-16 upto 31.03.2016**

The date for filing Form CR-II has been extended from 15.03.2016 to 31.03.2016 for the first 3 quarters of current FY (i.e. 01.04.2015 to 30.06.2015; 01.07.2015 to 30.09.2015 and 01.10.2015 to 31.12.2015).

Online Form CR-II is required to be furnished on quarterly basis for providing the details of transactions of delivering goods having value more than Rs. 10,000 at the doorsteps of their clients by all firms/companies engaged in the business of courier activities and having their offices functioning within the National Capital Territory of Delhi.

[Notification No. F.3(628)/Policy/VAT/2016/PF/1658-1670 dated 15<sup>th</sup> March, 2016]

### **17. Procedure for sealing & de-sealing of premises**

The Delhi Government vide *Circular No. 43 of 2015-16 F.3(645) / Policy / VAT / 2016 / 1739-44 dated 21.03.2016* has prescribed the manner for surveys to be conducted by survey teams which are headed by an officer of the level of AC/ VATO which is as follows:

- The survey team can seize incriminating documents and any other unaccounted papers found during search for which a proper acknowledgement is to be given to the dealer.

- If the dealer refuses to cooperate, then the premises can be sealed & can be de-sealed only after furnishing the security.
- Sometimes the survey team may not be able to complete the task due to inadequate staff even after normal business hours. In such situations, the team can abandon the search operation in consultation with his supervisory officer & the premises should be locked and a seal / mark may also be affixed as a security measure. Further, security guard may also be posted if considered necessary & the survey can be resumed next day. In this way, business of the dealer remains unaffected.

*[The above circular is issued in supersession of Circular No. 41 of 2015-16 F.3(645)/Policy/VAT/2016/1688-93 dated 16<sup>th</sup> March, 2016]*

#### **18. Assessment of Enforcement Survey/Seizure Cases by respective ward officers**

The Honorable High Court of Delhi in a recent judgment has advocated avoidance of multiplicity of authorities. Accordingly, it has been decided to assign the assessment of all cases, pursuant to Enforcement surveys, to Ward Officers concerned except cases, for which proceedings has been transferred by the Commissioner through a separate order. Accordingly, all officers with whom such cases are lying pending as on date, are directed to transfer the aforesaid cases to the concerned Ward Officers immediately. After assignment, Ward authorities shall ensure that assessments are completed within the time frame specified.

*[Circular No. 42 of 2015-16 F.3(651)/Policy/VAT/2016/1734-38 dated 19<sup>th</sup> March, 2016]*

#### **19. VAT deduction at source in respect of works contract- advisory to Govt. department**

All the government departments have been advised to deduct tax at the source and deposit the same with the Trade & Taxes Department. This Circular has been issued considering the fact that some of the Government Departments are carrying out works contract activities by assigning various departmental contracts to the contractors without deducting any tax at source. Further, failure to deduct and remit would tantamount to non-compliance of the law attracting penal provisions.

It may be noted that presently tax is deducted at the rate of 4% in case of registered dealer and 6% in case the contractor is unregistered. The same is to be deposited within 15 days following the month in which such deduction is made.

*[Circular No. F.3(654)/Policy/VAT/2016/1800-1802 dated 28<sup>th</sup> March, 2016]*

**WEST BENGAL VAT:**

## 20. One-day registration for all dealers

The one-day registration scheme has already been in service since 27.05.2015. Now with immediate effect, it has been provided to extend this scheme for all new registration applications under both West Bengal VAT Act & CST Act. The registration shall be granted within next working day of furnishing hard copy of completed application along with necessary documents including application fees and security payment details. To avail this facility the dealer will have to follow the following steps:-

- Apply online for VAT Registration along with
  - Uploading the following scanned documents:-
    - Trade license(s)
    - PAN of firm
    - PAN of owner
    - Residential proof
    - Security paid challan
  - Uploading of security payment (GRN) details.
- Submit the signed hard copies of the following before the registering authority:
  - Acknowledgement
  - Application form
  - All supporting documents including above scanned documents, application fees and security paid challan

After successful receipt of the hard copies, the application shall be granted within next working day of receiving it. In case of any deficiency, the matter shall be informed through e-mail. In case of rejection of application, the security paid challan can be used against fresh application.

*[Circular No 02/2016 dated 15th March, 2016]*

## 21. Claim of ITC in case of sale-purchase mismatch

Due to wrong filing of annexures to the returns like entering wrong TIN, etc. causing undue hardship to the purchaser for claiming CENVAT Credit. It has been clarified that the dealers must verify the quarter-wise sale-purchase mismatch list for each quarter available in "Dealer Profile" on [www.wbcomtax.nic.in](http://www.wbcomtax.nic.in) and revise the returns within 6 months from the last date for submission of the original return for the respective quarter, if necessary otherwise demand notice may be issued to the purchasers.

*[Circular No 04/2016 dated 4<sup>th</sup> April, 2016]*

## 22. Amendment in Rules of Maharashtra Value Added Tax Rules, 2005

Following Rules have been amended vide *Notification No. VAT. 1516/C.R. 53/Taxation-1. dated 1<sup>st</sup> April, 2016* which is in force from 01.04.2016:

**Rule 52B (Set-off in respect of certain goods)**

If the claimant dealer has purchased mobile phone or cellular handset i.e. telephones for cellular network or for other wireless network then he shall be entitled to claim set-off only to the extent of aggregate of the taxes paid or payable under CST Act, 1956 on the inter-state resale of the corresponding goods and the taxes paid on the purchases of said goods if they are resold locally. Earlier the above provision was only for goods covered under entries 13 and 14 of schedule 'D'.

**Rule 53 (Reduction in set-off)**

Sub-rule (11) has been inserted providing that the claimant dealer who is engaged in the business of transferring the right to use of passenger motor vehicles for any purpose can claim set-off of tax paid on motor vehicles purchased only to the extent of tax payable on such transfer of right to use. Further, the set off shall be claimed in the period in which such right to use has been transferred.

**Rule 54 (Non-admissibility of set-off)**

As per the old law no set-off shall be admissible for purchases of passenger motor vehicles which are treated as capital assets and parts, components and accessories thereof. Now it has been clarified that the above provision shall not apply to the claimant dealer who is engaged in the business of transferring the right to use in the said vehicles for any purpose.

*[Notification No. VAT. 1516/C.R. 53/Taxation-1. dated 1<sup>st</sup> April, 2016]*

**KARNATAKA VAT:**

**23. Amendments made in Karnataka Value added Tax, 2003**

Following amendments have been made by Karnataka act No. 06 of 2016 effective from 01.04.2016:

**Section 10 (Output tax, input tax and net tax)**

A sub-section has been inserted stating that input tax deducted by a registered dealer to calculate net tax payable shall be provisional in the case of a dealer who fails to furnish or furnishes incorrect and incomplete particulars in a return. However the jurisdictional authority shall assess net tax by disallowing input tax claimed and shall also issue a demand notice.

Further, where an assessment has been made and the dealer subsequently furnishes correct or complete return then the jurisdictional authority shall withdraw the assessment order. However, the dealer shall still be liable to pay penalty.

**Section 31 (Accounts)**

A proviso has been inserted to provide that dealers who are required to get their books of accounts audited (i.e. if total turnover exceeds Rs. 100 lakhs in a year) shall submit a copy of audited statement of accounts electronically through the website notified by the Commissioner.

#### **Section 38 (Assessment of Tax)**

The prescribed authority may now make an assessment on a registered dealer to the best of his judgement where the return furnished is incorrect or incomplete and shall also advise the dealer to pay the tax assessed within 10 days from the date of service of such assessment order on the dealer.

#### **Section 72 (Penalties relating to returns and assessment)**

Sub-section (2A) has been inserted to provide that a dealer who has furnished a revised return which understates his tax liability or overstates the claim for tax credit by more than 5% of his actual then he liable to a penalty equal to 10% of the amount of such tax under or overstated only after he has been given the opportunity of showing cause in writing against penalty imposed.

Sub-section (3B) has been inserted to provide that a dealer who fails to submit a copy of the audited statement of accounts and documents as informed in the notice issued to him shall be liable to a penalty of Rs. 50 for each day of such default.

*[Karnataka act No. 06 of 2016]*

### **HARYANA VAT:**

#### **24. Haryana 2016-17 Budget Highlights**

Following proposals have been made in budget:

- An amnesty scheme has been proposed to be introduced for granting relief from tax, interest, penalty & other dues from registered dealers, whose goods have been lost or destroyed during the reservation agitation in February, 2016.
- A "Submit Bill, Get Prize Scheme" has been proposed to encourage the customers to obtain bill/ invoice for the goods purchased. It will enhance compliance on the part of seller resulting in increase in revenue for the State.

### **CHHATTISGARH VAT:**

#### **25. Time extension for disposal of assessment cases of 2011-12 & 2012-13**

Chhattisgarh Government vide *Notification No. F-10-12 /2016/CT/V (19)*, dated 22<sup>nd</sup> March, 2016 has extended the due dates for completion of assessment and reassessment proceedings for every dealer which are as follows:

Should have been completed by	Earlier Extended Due Date	Revised Extended Due Date
31.12.2014	31.03.2016	31.05.2016
31.12.2015	30.06.2016	31.08.2016

[Notification No. F-10-12 /2016/CT/V (19). dated 22<sup>nd</sup> March, 2016]

**26. Amendments made in Chhattisgarh Value Added Tax Rules, 2006 to be effective from 01.04.2016**

Following Rules have been amended vide *Notification No.F-10-17/2016/CT/V (28) dated 31<sup>st</sup> March, 2016 in Chhattisgarh Value Added Tax Rules, 2006 effective from 01.04.2016:*

**Rule 22 (Revised Returns)**

A new clause has been inserted to provide that the statement which is required to be furnished with the return may be revised within 1 month from the last date of filing of such return.

A new Form 18 has to be filled along with the existing Form 17 for filing of the said revised return.

**Rule 35 (Payment of Tax with returns)**

Tax Amount	Earlier Provision	Proposed Provision
Less than Rs. 50000 per quarter or Rs. 2 lakhs per annum	Pay 100% tax amount quarterly within 30 days of expiry of the quarter	Pay minimum 90% of quarterly tax payable within 15 days of expiry of the quarter and pay balance tax within 30 days of expiry of the quarter.
Rs. 50000 to Rs. 25 lakhs per quarter or Rs. 2 lakhs to Rs. 1 crore per annum	Pay on or before the 10th of the 2nd and 3rd month respectively, of every quarter, an amount specified in Rule 35 & the balance amount of tax due for a quarter shall be paid on or before the date prescribed for furnishing for such return.	Pay on or before the 10th of the 2nd and 3rd month respectively, of every quarter, an amount specified in Rule 35 & pay 90% of balance amount due for a quarter within 15 days of expiry of the quarter and pay the remaining balance amount of tax within 30 days of expiry of the quarter.
Rs. 25 lakhs and above per quarter or Rs. 1 crore and above per annum		

A new **Rule 77A (Compounding of Offences)** has been inserted providing that:

- The applicants shall make an application for compounding of offence to the prescribed authority and shall produce the proof of deposit of tax amount along with the application.
- The authority shall pass an order within 3 months from the date of receipt of the application. Further order of rejection of application shall be passed only after giving an opportunity of being heard to the applicant.
- Order for compounding an offence shall be in writing specifying the offence committed, quantum of money to be deposited. Order served on the dealer shall be final i.e. not appealable.
- The dealer shall deposit the balance amount payable within 30 days of receipt of order. However, if payment of tax is not made within stipulated time then the order shall be treated as ineffective and void.

*[Notification F-10-17/2016/CT/V (28) dated 31<sup>st</sup> March, 2016]*

## **27. Exemption for works contract has been extended from 31.03.2016 to 31.03.2017**

The Chhattisgarh Government has extended the already existing exemption (as follows) in respect of works contracts till 31.03.2017:

<b>Class of Person</b>	<b>Extent of Exemption</b>	<b>Condition for Exemption</b>
Registered dealers under taking works contracts involving supply of goods	The amount to be deducted by a person letting out works contracts towards the tax payable shall be at the rate of composition if it is less than 2%.	The dealer has to obtain permission to make payment in lump sum by way of composition against the payable tax.

*[Notification No.F-10-17/2016/CT/V (30) dated 31<sup>st</sup> March, 2016]*

## **MADHYA PRADESH VAT:**

### **28. Amendments made in Madhya Pradesh VAT Act, 2002**

Following amendments have been made in Madhya Pradesh VAT Act, 2002:

#### **Section 9 (Levy of Tax) - Revision in Scheduled -II**

A new proviso has been inserted empowering the State Government for fixing the minimum amount of tax on the basis of weight, volume measurement or unit, in respect of goods specified in Part IIIA of Schedule II which are Diesel, petrol, natural gas, tendu leaves, timber, liquor, cigars, cigarettes, pan masala, telephone, etc.

#### **Section 18 (Returns) - Rate of interest has been increased**

The maximum rate of interest has been enhanced from 1.5% pm to 2% pm on the differential amount of tax between tax paid in returns & tax as per the accounts. Interest is to be paid from the date the tax so payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.



### **Section 26 (Deduction and payment of tax in certain cases)- VAT deduction at source**

Tax at source is required to be deducted by department of Central / State Government, PSUs, Municipality & Municipal Corporations, Authority Constituted under any law for the time being in force or Public Limited Company on payment made to any dealer for supplying goods in pursuance to a contract between such dealer and the person making such purchases. Further, State Government by notification may exempt any person or class of persons from the above provision.

The rate of tax deducted at source has been increased from 2% to 3% for a works contract of value exceeding Rs. 3 lakhs involving sale of goods in respect of a contractor who has opted for payment of taxes under the composition scheme. However, the rate of tax deduction at 2% shall continue in case of a contractor opting to pay taxes under the regular scheme.

The following persons will mandatorily deduct tax while awarding a works contract-

- Authority constituted under a law relating to local authority including a Gram Panchayat, a Janapad Panchayat and a Zilla Panchayat (instead of Municipality and Municipal Corporation)
- All recognized Dental colleges and hospitals associated to such dental colleges,
- All recognized Medical colleges and hospitals associated to such Medical colleges,
- All recognized universities.

A new **Section 28A (Provisional attachment to protect revenue in certain cases)** has been inserted as specified below:

- If during the course of an inquiry where tax evasion is suspected, and the Commissioner is of view that it is necessary to protect the interest of the revenue then he may by an order in writing provisionally attach any money by specifying the amount. Such order may be revoked if the dealer furnishes a bank guarantee. Further, the dealer shall be personally liable to pay the amount so attached until the order has not been revoked or has not ceased to have effect.
- Provisional attachment shall cease after the expiry of 1 year from the date of service of the order. However, the Commissioner may extend the period after taking into consideration of the fact that the total period of extension shall not in any case exceed 2 years.
- Commissioner may confirm, modify or revoke the order after giving a reasonable opportunity of being heard to the dealer for the application made within 15 days of the date of service of the order or the order extending the period. An appeal against above order passed shall lie with the Appellate Board.

### **Section 34 (Power to set aside an ex parte order)**



The decision regarding setting aside an ex-parte order shall be taken within 60 days from the date of filing an application made by the dealer to the assessing authority for setting aside the order and reopening the case.

[*Madhya Pradesh ACT No. 14 of 2016*]

## HIMACHAL PRADESH VAT:

### 29. Electronic Declaration of tax invoices/ bills/ cash memos for intra-State movement of goods - Amendment in Rule 61B of Himachal Pradesh Value Added Tax Rules, 2005

Himachal Pradesh Government vide *Notification No. EXN-F(10)-7/2011- Vol I dated 28<sup>th</sup> March, 2016* has made it mandatory for e-declaration in Form VAT-XXVI by dealers before dispatching taxable goods of value aggregating Rs. 30,000/- or more in the course of inter-state transactions. Further, this e-declaration shall also be furnished by a single registered dealer who dispatches goods in a single vehicle to multiple purchasers valuing more than Rs 30,000/- within the State of Himachal Pradesh.

The class of dealer or the goods on which this notification would be applicable will be notified by the State Government.

[*Notification No. EXN-F(10)-7/2011- Vol I dated 28<sup>th</sup> March, 2016*]

### 30. Amendments proposed in Himachal Pradesh Value Added Tax Act, 2005

Following amendments have been proposed in Himachal Pradesh Value Added Tax Act, 2005 vide *Bill No. 7 of 2016*:

#### Section 11 (Input Tax Credit)

Situation where dealer-	Earlier Penalty	Penalty Proposed
Falsely claims ITC in his returns	Twice of such claim or credit	Amount equal to such claim or credit
Claims incorrect ITC in the return	50% of such claim or credit	25% of such claim or credit

**Section 14A (Application for grant of Provisional Registration Certificate)** has been proposed to be inserted which provides that:

- Any person can apply for registration by online application along with scanned copies of the prescribed documents.
- The Provisional Registration Certificate (RC) shall be granted within 3 working days of receipt of application.
- Afterwards, applicant may be directed to produce evidence and documents and also the accounts relating to the business for verification. On being satisfied, the prescribed authority shall issue a Permanent RC within 30 days from the date of receipt of application.
- However, prescribed authority may reject the application & cancel the Provisional RC within 30 days of receipt of application if it is satisfied that the particulars given are incorrect or that the applicant has misrepresented certain facts only after giving an opportunity of being heard to the applicant.

### Section 16 (Payment of tax and returns)

Particulars	Earlier penalty when annual tax liability is more than Rs. 20 lakhs	Proposed Penalty
Failure / dealay to file monthly returns	Rs. 1,000 per day	Rs. 1,000 per day subject to maximum of Rs. 50,000

Further, where a dealer has closed down his business or has left the business without getting his RC cancelled then the Assessing Authority shall suspend the RC immediately and thereafter no further incremental penalty shall be imposed.

**Section 27A (Special provision for settlement of pendency and arrears)** has been proposed to provide a Settlement Scheme for cases of a particular period where the dealer could not submit the statutory forms required for assessment. The Scheme will allow for waiver of the tax amount, interest and penalty.

**Section 49A (Advance Ruling)** has been proposed to be inserted providing that:

- An 'Advance Ruling Authority (ARA)' is constituted to clarify the rate of tax or the eligibility to tax of any transaction or eligibility of deduction of input tax or liability of deduction of tax at source.
- Any registered dealer can make an application accompanied by proof of fee payment.
- The Authority after examining may either admit or reject the application. Further, the application shall not be accepted where the question raised:
  - is already pending or
  - relates to a transaction which is designed apparently for the avoidance of tax.
 Moreover, no application shall be rejected unless an opportunity of being heard is given and reasons for such rejection shall be recorded in the order.
- The order shall be passed within 90 days of the receipt of application. A copy of every order shall be sent to the applicant and the officer concerned.

*[Bill No. 7 of 2016]*

## **NAGALAND VAT:**

### **31. Compulsory filing of e-return w.e.f. 01.04.2016**

Nagaland Government has provided for mandatory e-filing of VAT return through "Tax Soft" for all the registered dealers i.e. only e-returns will be accepted w.e.f. 01.04.2016.

*[Notification NO.CT/LEG/CR/128/2006 dated 29<sup>th</sup> March, 2016]*

## **JAMMU & KASHMIR VAT:**

### **32. Exemption period extended for hotels, lodges & guest houses upto 30.06.2016**

The Jammu & Kashmir Government has extended the exemption from payment of tax by hotels, lodges and guest houses providing lodging facilities from 31.03.2016 to 30.06.2016.

*[Notification No. SRO 109 dated 31<sup>st</sup> March, 2016]*

### **33. Extension in date for remission of tax from 31.03.2016 to 30.06.2016**

The Jammu & Kashmir Government has extended the date for remission of tax from 31.03.2016 to 30.06.2016 i.e. remission of tax will be available to small, medium and large scale industrial units upto 30.06.2016 or till the State adopts the GST Act, whichever is earlier after fulfilling the conditions specified in *Notification No. SRO 91, dated 16<sup>th</sup> March, 2006.*

*[Notification No. SRO 110, dated 31<sup>st</sup> March, 2016]*

### **34. Online filing of returns along with payment from 1<sup>st</sup> quarter of 2016-17 onwards**

It has now been provided under J&K Value Added Tax Act, 2005 to file online returns along with payment from 1<sup>st</sup> quarter 2016-17 and onwards by the registered dealers having gross annual turnover of Rs. 20 lakhs & above.

The above provision has also been provided in Jammu & Kashmir General Sales Tax Act, 1962 vide *Notification No. 02 of 2016, dated 31<sup>st</sup> March, 2016.*

*[Notification No. 03 of 2016, dated 31<sup>st</sup> March, 2016]*

## **UTTARAKHAND VAT:**

**35. Annual Return for FY 2014-15 can be filed upto 30.06.2016 without late fees**

The Uttarakhand Government vide *Notification No. 257/2016/19(120)/XXVII(8)/2012 dated 30th March, 2016* has provided that annual return for FY 2014-15 may be filed upto 30.06.2016 without payment of any late fees. It may be noted that the due date for filing of the annual return for the year 2014-15 was 31.12.2015.

*[Notification No. 257/2016/19(120)/XXVII(8)/2012 dated 30<sup>th</sup> March, 2016]*

**36. Amendments made in Uttarakhand Value Added Tax Act, 2005**

Following Sections of Uttarakhand Value Added Tax Act, 2005 have been amended by Uttarakhand Finance Act, 2016 :

**Section 17 (Procedure for registration)**

Any opening/closing of bank account of dealer shall be required to inform within 30 days, which is not mentioned in the application of registration.

**Section 25(9) : Tax Audit & its Assessment**

Clause (e) has been substituted by stating that the officer conducting the tax audit shall now have no powers to make extracts or copies for other documents, inventory of stock.

Clause (f) has been substituted providing that The tax audit authority after considering all the evidence collected in course of the proceeding may :-

- Confirm the order which has already been passed or
- Set aside the order and reassess the turnover and tax of the dealer or
- Assess the amount of tax due if no assessment has been made so far;

No such assessment or reassessment shall be made unless a reasonable opportunity of being heard has been given to the dealer. Further, not more than 3 adjournments shall be granted for hearing of the case.

**Section 29 (heading has been changed to 'Assessment of the Turnover not Assessed or Assessed at lesser rate during the year')**

Sub-section (1) has been substituted providing that Assessing Authority can make assessment in every case where they have a reason to believe that the whole or any part of turnover or tax has:

- (a) escaped assessment; or
- (b) been under assessed; or
- (c) been assessed at a rate lower than the rate at which it is assessable; or
- (d) been wrongly allowed any exemption or deduction therefrom; or
- (dd-New clause) During Assessment rebate or concession has been allowed on the basis of submitted declaration form or certificate but such declaration form or certificate is found to be false or wrong afterwards; or
- (e) been wrongly allowed any tax credit therein,

Sub-section (4) has been amended by providing that now the Commissioner is not authorised to make reassessment after the expiry of 4 years from the date of the order sought to be reassessed.

#### **Section 34 (Payment & Recovery of Tax)**

A sub-section (17A) has been inserted stating that if a person fails to pay the amount due to a dealer or money held for or on account of a dealer to the Assessing Authority then he shall be liable to pay an amount not exceeding the amount due as penalty.

A **Section 34A (Tax to be first Charge)** has been inserted providing that any amount of tax, penalty or other amount payable by a dealer or other person shall be first charged on the property of the dealer or such person.

#### **Section 51 (First Appeal)**

A sub-section (4A) has been inserted providing that:

<b>Following appeals shall be entertained-</b>	<b>Condition: Furnish a proof of payment of-</b>
Ex-parte Order	5% of amount of disputed tax or penalty or Rs. 1 Lakh ; whichever is less
Any other order (except ex-parte order) or penalty	20% of the amount of disputed tax/ penalty etc. or Rs. 5 lakhs ; whichever is less
Any declaration form or certificate of turnover of concession or rebate, which is being rejected or not produced before the Assessing Authority	10% of the amount at general rate of tax payable on the amount of the turnover of such declaration form or certificate, rejected or not produced

#### **Section 58 (Offences & Penalties)**

The maximum penalty amount has been increased from Rs. 2,000 to Rs. 10,000 for each default where the dealer refuses or neglects to furnish any information which may be in his knowledge or possession or furnishes information which is false in any material particulars.

#### **Section 61 (Period for which Accounts to be retained)**

Every dealer shall now preserve all accounts required to be maintained by him for a period of 8 years (earlier it was 6 years) after the close of the assessment or till the assessment or reassessment or any other proceedings for such assessment year is completed, whichever is later.

Section 31 (Power to set aside an Order of Assessment) & Sub-section (6) of Section 32 (Period of Limitation for making Assessment or Reassessment) have been deleted.

*[Notification No. 103/XXXVI(3)/2016/15(1)2016 dated 31<sup>st</sup> March, 2016]*

## **PUNJAB VAT:**

### **37. Issuance of provisional registration number immediately on receipt of registration application by Punjab Bureau of Investment Promotion**

A proviso has been inserted under Rule 3(1) providing that the Punjab Bureau of Investment Promotion on receipt of a registration application shall immediately issue a provisional registration number & send the application to the concerned designated officer for further enquiry. The designated officer after being satisfied shall issue the registration certificate (RC) & send the same to the Bureau for handing over the same & the permanent TIN to the applicant within 7 days from the date of his application.

*[Notification No. G.S.R.28/P.A.8/2005/S.70/Amd.(58)/2016 dated 31<sup>st</sup> March, 2016]*

## **GUJARAT VAT:**

### **38. Amendment made in Gujarat Value Added Tax Act, 2003**

**Section 7 (Levy of tax on turnover of sales and rates of tax)** has been amended by *Gujarat Act No. 6 of 2016* effective from 01.04.2016 which provides that the State Government has been authorised to add to or omit from or amend or modify Schedule III so as to levy tax on the basis of price, weight, volume, measurement or unit, or reduce or enhance the tax rate in respect of any goods specified in Schedule III. Hitherto, the State Government had the power to reduce the tax rate, omit or amend any entry in Schedule III but was not authorised to enhance the tax rate.

*[Gujarat Act No. 6 of 2016]*

## **BIHAR VAT:**

### **39. Amendments made in Bihar Value Added Tax Act, 2005**

Following amendments have been made by Bihar Act 4, 2016:

#### **Section 3A (Surcharge)**

The rate of surcharge has been increased from 20% to 30% i.e. every dealer liable to pay tax shall also pay a surcharge on the goods specified in Schedule IV at a rate not exceeding 30% of the total amount of tax payable by him.

#### **Section 14 (Rate of Tax)**

Tax at the rate of 14.5% (earlier 13.5%) shall be payable on the sale price of the goods not specified in the Schedules I, II, III and IV.

#### **Section 70 (Interest on delayed refunds)**

The time period of 90 days has been reduced to 60 days.

- When the amount of refund is not refunded or the refund application is not rejected within 60 days, then simple interest @ 6% p.a. or part thereof shall be paid to the dealer calculated from the date immediately following the expiry of 60 days to the date of the refund. If the delay in granting refund within 60 days is attributable to the applicant then such period of delay shall be excluded from the period for which interest is payable.
- When the amount becomes refundable by virtue of an order of the Tribunal/ High Court/ Supreme Court then interest shall be payable from the date immediately following the expiry of 60 days from the date of receipt of order by the officer to the date of refund.

*[Bihar Act 4, 2016]*