

Staying Updated

Indirect tax newsletter

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In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

In the issue

Central Excise

Notifications and circulars

- The Central Government has issued instructions for withdrawal of cases pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matters.
- The Central Government has amended the monetary limit for filing appeals by the Department, before Tribunal, High Courts and Supreme Court.

Case law

Manufacture

- Putting a tag on parts of automobile parts amounts to 'manufacture'.

Valuation

- Expenses incurred by dealer on his own account towards pre-delivery inspection (PDI) as well as free after sales services were not includible in assessable value.

VAT/Sales tax

Notifications and circulars

- Due date for filing of periodical and annual returns extended in Madhya Pradesh and Delhi.

- VAT rates on selected products revised in Chandigarh, Punjab, Madhya Pradesh and Uttarakhand.

Case law

- Battery chargers were taxable as accessories and not parts of mobile phone.

Service tax

Notifications and circulars

- The Central Government has issued instructions for withdrawal of cases pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matters.
- The Central Government has amended the monetary limit for filing appeals by the Department, before Tribunal, High Courts and Supreme Court.

Case law

- Unless the tax demand was determined pursuant to an adjudication order, recovery proceedings could not be initiated.
- Option to pay reduced penalty under section 78(1) was not available at appellate stage.

Central excise

Notifications and circulars

- The Central Government has issued instruction for withdrawal of appeals pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matter, which has been accepted by Department.

(Instruction No. F. No. 390/Misc./67/2014-JC, dated 18 December, 2015)

- The Central Government has issued instructions in order to reduce Government litigation by providing revised monetary limits as mentioned in the table below, for filing appeals by the department before Tribunal, High Courts and Supreme Court.

Sr. No.	Appellate Forum	Monetary Limit
1	CESTAT	10,00,000/-
2	High Court	15,00,000/-
3	Supreme Court	25,00,000/-

(Instruction No. F. No. 390/Misc./163/2010-JC, dated 17 December, 2015)

Case law

Manufacture

- In *Larsen and Toubro Ltd and Ors v. CCE (2015-TIOL-2561-CESTAT-MUM)*, the Mumbai Tribunal held that even putting a tag on parts of automobile

parts will amount to labelling of goods and hence will amount to 'manufacture' under section 2(f)(iii).

- In *Bharat Sanchar Nigam Ltd v. CCE&ST (2015-TIOL-2332-CESTAT-DEL)*, the Delhi Tribunal held that the activity of installation and commissioning of switching system along with power plant and inverter did not amount to manufacture.
- In *Aravali Marbles v. CCE&ST (2015-TIOL-2321-CESTAT-DEL)*, the Delhi Tribunal held that cutting of marble blocks into marble slabs did not amount to manufacture.

Valuation

- In *CCE v. TVS Motors Company Ltd (2015-TIOL-299-SC-CX)*, the Supreme Court held that expenses incurred by dealers on their own account towards the pre-delivery inspection charges and after sales service charges were not includible in the assessable value.
- In *Aquarius Technologies Pvt Ltd v. CCE (2015-TIOL-2567-CESTAT-MUM)*, the Mumbai Tribunal held that charges collected towards training provided to the customer's staff, being optional and at the request of customers, was not includible in the assessable value.

In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

In the issue
Central excise
Service tax
VAT/Sales tax/Entry tax
Contacts

CENVAT/ MODVAT

- In *DCW v. CCE (2015-TIOL-2533-CESTAT-MAD)*, the Chennai Tribunal held that CENVAT credit was admissible on inputs used for running the Sewage Treatment Plant (STP) since setting up of such STP was a requirement of Pollution Control Board for eradication of water pollution and therefore, it could not be said that STP was not an integral part of the factory as well manufacturing activity.
- In *Dalmia Cement (Bharat) Ltd v. CCE (2015-TIOL-2420-CESTAT-MAD)*, the Chennai Tribunal held that credit was admissible on steel plates/ angles used for fabrication of plant and machinery.
- In *JSW Steel Ltd v. CCE (2015-TIOL-2432-CESTAT-MUM)*, the Mumbai Tribunal held that demand for reversal of credit under Rule 6(3) was not sustainable when exempted byproducts emerged unintentionally during the manufacture of dutiable final products.
- In *Jindal Steel and Power Ltd v. CCE (2015-TIOL-2376-CESTAT-DEL)*, the Delhi Tribunal held that jumbo electric/ battery operated platform truck, hot metal transport vehicle, trailer assembly and ladle transfer car specially designed for operational use

inside the assessee's factory was eligible for credit as capital goods.

- In *Jayaswals Neco Ltd v. CCE (2015-TIOL-2388-CESTAT-MUM)*, the Mumbai Tribunal held that credit on inputs used in export goods could not be denied on the ground that final products was exported directly from the job worker's premises.
- In *Bhavnish Metal v. CCE (2015-TIOL-2393-CESTAT-DEL)*, the Delhi Tribunal held that once the recipient had received the goods on payment of duty, the CENVAT credit could not be denied on the ground that the supplier of the inputs was not required to pay excise duty on the goods supplied.

Service tax

Notifications and circulars

- The Central Government has issued instruction for withdrawal of appeals pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matter, which has been accepted by Department.

(Instruction No. F. No. 390/Misc./67/2014-JC, dated 18 December, 2015)

- The Central Government has issued instructions in order to reduce Government litigation by providing revised monetary limits as mentioned in the table below, for filing appeals by the department before Tribunal, High Courts and Supreme Court.

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Case law

- In the case of Goa Mineral Ore Exporter's Association v. Commissioner of Central excise, Goa (2015-TIOL-2670-CESTAT-MUM), the Mumbai Tribunal held that the appellant was an association formed by the members only

for the purpose of the mutual benefit of the members in regard to mining/ trade of minerals. There was a mutuality of interest of the members and the association and therefore, the service provider and service recipient concept did not exist in this case. Accordingly, the membership fees collected by the association prior to 1 July, 2012 would not be subject to service tax under the category 'Club or Association services.'

- In the case of Larsen and Toubro Ltd v. Commissioner of Service Tax, Mumbai – II (2015-TIOL-2719-CESTAT-MUM), the Mumbai Tribunal held that recovery of costs for deputation of manpower to its sister concern would not be subject to service tax under the category 'Manpower Recruitment or Supply Agency services'. Further, since no show cause notice was issued to the appellant to tax these services under the category 'Manpower Recruitment and Supply Agency services', the order of the first appellate authority taxing the services under this category was liable to be set aside on this ground itself.
- In the case of Quality Fabricators and Erectors v. The Deputy Director, DGCEI Zonal Unit, Mumbai and Others (2015-TIOL-2710-HC-MUM-ST), the Mumbai High Court held that unless the tax demand was determined pursuant to an adjudication order, recovery proceedings could not be initiated.

In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

- In the case of PR Commissioner of Service Tax, Delhi – II *v.* Tops Security Limited (2015-TIOL-2751-HC-DEL-ST), the Delhi High Court held that the option to pay the reduced penalty under section 78(1) of the Finance Act, 1994 could not be given to an assessee at the appellate stage i.e. the CESTAT did not have the authority to permit the assessee to pay the reduced penalty under section 78(1). Such option was available to the assessee at the adjudication stage only.

In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

VAT/Sales Tax

Notifications and circulars

Chandigarh

- Effective 11 December 2015, rate of tax on normal petrol and branded premium petrol has been increased to 24.74%. The rate of tax on automobiles has been increased to 13.20%. Due date for filing reconciliation return for FY 15 in Form 9 has been extended to 15 December, 2015.
(Notification No. E&T-ETO (Ref.)-2015/3646 dated 11 December, 2015)

Chattisgarh

- Effective 1 December 2015, rate of tax on foreign liquor and Indian-made foreign liquor sold through dealers holding F.L-10 license has been increased from 7% to 8.5%.
(Notification No. F1035/2015/CT/V (68) dated 30 November, 2015)

Delhi

- Due date for filing of information in online Form DP-1 had been extended to 31 December, 2015.
(Notification No. F.3(352)/Policy/VAT/2013/106273 dated 23 November, 2015)
- Effective 18 December 2015, 100 % reversal of tax credit was prescribed on un-manufactured tobacco, tobacco and tobacco products in all forms and all kinds of lubricants exported from Delhi other than by way of sale.

(Notification No.F.3 (25)/Fin (Rev-I)/2015-2016 dated 18 December, 2015)

Madhya Pradesh

- Due date for submission of revised return pertaining to FY 15 for dealers having annual turnover exceeding INR 10 million was extended to 31 December, 2015.
(Notification No. FA3632015IV (39) dated 9 December, 2015)
- Due date for submission of audit report for FY 15 was extended to 31 December, 2015.
(Notification No. FA3632015IV (40) dated 9 December, 2015)
- The VAT rate on the following products was increased from 14%. The revised rates (given below) have been made effective from 18 December, 2015:

Sr. No.	Description of goods	VAT rate
1.	Cigarettes	16%
2.	All kinds of non-alcoholic drinks and beverages	20%
3.	All types of two/three wheelers and four wheeler motor vehicles	15%
4.	Refrigerator, deep freezer, air-conditioning plants	15%
5.	Television	15%

(Notification No. A-3-58/2015/1/Five (44) dated 17 December, 2015)

In the issue
Central excise
Service tax
VAT/Sales tax/Entry tax
Contacts

Punjab

- Effective 2 December 2015, rate of tax on ‘dry fruits’ has been decreased from 6.05% to 4.95%.
(Notification No. S.O.57/P.A.8/2005/S.8/2015 dated 2 December, 2015)

Tamil Nadu

- Facility for issue of manual forms of “C” and “F” to the dealers for all missed out invoices and mistakes in the already generated online forms, has been extended up to 31 March, 2016.
(Circular No.45/2015 CC4/678/2012 dated 10 December, 2015)

Telangana

- Effective 1 February 2016, issue of e-waybills has been made mandatory.
(Circular CCT's Ref No. Enft./D2/172/2010 dated 1 December, 2015)
- Effective 15 December 2015, the time limit of granting refund of tax claimed by the dealer has been reduced from 90 days to 60 days.
(Notification No. G. O. MS No. 235 dated 10 December, 2015)

Uttarakhand

- Effective 5 December 2015, rate of tax on ‘Diesel’ has been changed from 21% to 21% or INR 9 per/lit whichever is higher.
(Notification No. 885/2015/146(120)/XXVII (8)/2008 dated 5 December, 2015)

Case law

- In Samsung India Electronics Pvt. Ltd. v. State of Punjab and Another [2015-TIOL-2720-HC-P&H-VAT], the Punjab High Court, relying upon the decision of the Supreme Court in the case of State of Punjab and others v. Nokia India Private Ltd, held that the mobile battery charger was not a part of mobile phone but an accessory and accordingly the same would be taxed at the rate applicable on accessories of mobile phones.
- In Citi Bank v. Commissioner of Sales tax [2015-TIOL-2842-HC-DEL-CT], the Delhi High Court held that the sale of repossessed cars by the bank through auction in order to realise its dues, was incidental or ancillary to its main banking business and qualifies as “Business” under Delhi Sales Tax Act. Therefore, the same was liable to sales tax.

Contacts

In the issue

Central excise

Service tax

VAT/Sales tax/Entry tax

Contacts

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