



INDIRECT TAX UPDATES

Updates on GST

The Chairman of the Empowered Committee of State Finance Ministers, Mr Asim Dasgupta has proposed to the Union Finance Minister a modified GST model whereby no amendment of the Constitution would be required & it will be the prerogative of the states to implement the GST model. By implementing this model, it is hoped that the autonomy of the states will not be compromised.

Notifications/Circulars

Changes have been incorporated vide the following notifications/circulars:

SERVICE TAX

1. Notification No.47/2010-ST, dated 3rd September, 2010: Outdoor catering services provided to any non-Government organisation registered under any Central or State Act under the Centrally assisted Mid-Day Meal Scheme will be exempted from the whole of the Service tax leviable.
2. Circular No.129/11/2010-ST, dated 21st September, 2010: All new services notified through Finance Act, 2010(14 of 2010) shall be subject to Export of Services Rules, 2005 & Taxation of Services provided from outside India & received in India Rules, 2006.
3. The Government of India has released the Draft Point of Taxation Rules (for Services provided or received in India) Rules, 2010. The Draft Rules are currently under circulation for review by trade & industry before its implementation.

The Draft Rules seek to bring clarity on the date from which a changed rate of tax or a new levy becomes payable. Further, the other major change which is envisaged is to link the payment of tax to provision of services.

EXCISE

1. Notification No.07/2010-Clean Energy Cess: Amendments have been made to the Clean Energy Cess Rules, 2010 to allow for removal of goods not later than 10th of the second month following the month in which the removals were made.

2. Notification No.29/2010-CE(NT), dated 24th September, 2010: Further amendments have been made in the CENVAT Credit Rules, 2004 to allow for CENVAT credit on components, spares & accessories of motor vehicles, dumpers or tippers which are used for providing taxable services.

CUSTOMS

1. Notification No.84/2010-Customs (N.T.), dated 17th September, 2010: The conditions & procedures for claiming Duty Drawback on various export items have been specified.

2. Notification No.83/2010-Cus(N.T.): Through an amendment to earlier notification nos. 36/2010-Cus(NT), dated 15th September, 2010 & 78/2010-Cus(NT), dated 31st August, 2010, the Central Government has fixed the fresh tariff values for certain items of import.

VAT

Rajasthan

1. Notification No.P01 (Regn. E Service) Gov./Org./Commission/10/2448, dated 16/09/2010: The Rajasthan Government has established a Common E-Service Centre for e-registration of VAT dealers, amendment in the VAT registration certificate, E-filing of Returns, etc.

2. Notification No. F.12(28)FD/Tax Div./2010-66: The Stamp Duty chargeable on the instrument of purchase or lease of land & any construction/improvement of such land for the purpose of setting up an enterprise shall be reduced by 50 percent provided such enterprise is declared eligible for the benefit by the prescribed Authority under the Rajasthan Investment Promotion Scheme, 2010

Haryana

1. Notification No.S.O.90/H.A.6/ 2003/S.59/2010: From 1st April, 2010, the rate of Haryana VAT applicable on all types of liquor will be 4 percent (inclusive of surcharge, if any).
2. Notification No.S.O.85/H.A.6/ 2003/S7/2010, dated 4th August, 2010: The rate of VAT payable by a Haryana VAT dealer on sale of goods specified in serial nos. 1-101 of Schedule C of the Haryana Value Added Tax Act would be 5 percent, except for items of liquor specified in Sl. No.4A of the said Schedule.

UP

1. Notification No. KANI-2-939/XI-9(81) 91-UP Act-30-07-Order-(62)-2010, dated June, 28, 2010: With effect from June 29, 2010, the Government of UP has allowed a rebate on the amount of Entry tax payable by a dealer to the extent of VAT payable on sale or purchase of natural gas by the said dealer in UP, subject to the condition that the amount of rebate shall not exceed the amount of entry tax levied.
2. The Uttar Pradesh Value Added Tax (Amendment) Bill has been passed by the State Legislative Assembly on 19th August, 2010: wherein major amendments have been incorporated in the UP VAT Act of 2008.

CASE LAWS

SERVICE TAX

In a civil appeal in the case of the Union of India & Others Vs. Martin Lottery Agency, the Supreme Court has held that Service tax is not leviable on sale, promotion or marketing of lottery tickets. The Court has further held that sale of lottery tickets is an economic activity undertaken by the state to generate revenue. Raising of revenue by the state cannot amount to rendition of any service.

EXCISE

In the Civil Appeal no.919 of 2007 in the case of Share Medical Care Vs. Union of India & Others, the Apex Court has held that even if an applicant does not avail benefit of a particular notification initially, he cannot be debarred, prohibited or stopped from availing the benefit at a later stage.

CUSTOMS

In the Civil Appeal No.2700 of 2006, the Apex Court has held that when the transaction Value required to be determined as per Rule 4 of the Customs Valuation Rules 1988 does not reflect the price at which such or like goods are ordinarily sold or offered for sale at the time & place of importation, then provisions of Section 14 of the Customs Act 1962 would prevail.