



वर्ष 46 अंक 11
30 नवम्बर 2016

मेवाड़ चेम्बर पत्रिका

(मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री का मासिक पत्र)

उदयपुर, चित्तौड़गढ़, डूंगरपुर, बाँसवाड़ा, प्रतापगढ़
राजसमन्द एवं भीलवाड़ा का सम्भागीय चेम्बर



रन भीलवाड़ा – कैंसर के विरुद्ध जागृति

मेवाड़ चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री

मेवाड़ चेम्बर भवन, नागौरी गार्डन, भीलवाड़ा (राज.) 311 001 फोन : 01482-220908, 238948

Email : mcci@mccibhilwara.com Visit us : www.mccibhilwara.com



25 नवम्बर 2016 को कन्सट्रेटेड सोलर टेक्नोलॉजी पर कार्यशाला को सम्बोधित करते हुए राजस्थान अक्षय ऊर्जा निगम के महाप्रबंधक श्री सुनित माथुर

कन्सट्रेटेड सोलर टेक्नोलॉजी पर कार्यशाला को सम्बोधित करते हुए केन्द्रीय अक्षय ऊर्जा मंत्रालय के तकनीकी अधिकारी श्री कुमार अभिषेक।



कार्यशाला में उपस्थित चेम्बर के सदस्यगण।



27 नवम्बर 2016 को भीलवाडा कैंसर केयर द्वारा आयोजित रन भीलवाडा को सम्बोधित करते हुए कैंसर विशेषज्ञ डॉ ललित मोहन शर्मा।



MEWAR CHAMBER OF COMMERCE & INDUSTRY

Mewar Chamber Bhawan, Nagori Garden

Bhilwara 311 001 (Raj.) ☎ 01482-220908 Fax : 01482-238948

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AFFILIATION

At the International Level : International Chamber of Commerce, Paris (France)

At the National Level : Federation of Indian Chamber of Commerce & Industry, (FICCI) New Delhi
Indian Council of Arbitration, New Delhi
National Institute for Entrepreneurship and Small Business Development (NIESBUD), New Delhi.

Confederation of All India Traders, New Delhi

At the State Level : Rajasthan Chamber of Commerce & Industry, Jaipur.

: The Employers Association of Rajasthan, Jaipur.

: Rajasthan Textile Mills Association, Jaipur

REPRESENTATION IN NATIONAL & STATE LEVEL COMMITTEES

All India Power loom Board, Ministry of Textile, Govt. of India, New Delhi

National Coal Consumer Council, Coal India Ltd., Kolkata

State Level Tax Advisory Committee, Govt. of Rajasthan, Jaipur

State Level Industrial Advisory Committee, Govt. of Rajasthan, Jaipur

Regional Advisory Committee, Central Excise, Jaipur

Foreign Trade Advisory Committee, Public Grievance Committee, Customs, Jaipur

DRUCC/ZRUCC of North Western Railways


कन्सट्रेटेड सौलर टेक्नोलोजी पर कार्यशाला

दिनांक 25 नवम्बर 2016 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री एवं राजस्थान अक्षय ऊर्जा निगम जयपुर के संयुक्त तत्वावधान में मेवाड चेम्बर भवन में सौर ऊर्जा उत्पादन एवं उपयोग पर कार्यशाला का आयोजित हुई। कार्यशाला में भीलवाडा, चित्तौडगढ, बांसवाडा, राजसमन्द के टेक्सटाइल, मार्बल, आयरन स्टील उद्योग के उद्यमियों एवं तकनीकी अधिकारियों ने भाग लिया।

राजस्थान अक्षय ऊर्जा निगम के महाप्रबंधक श्री सुनित माथुर ने कार्यशाला को सम्बोधित करते हुए कहाकि भीलवाडा के टेक्सटाइल उद्योग में कन्सट्रेटेड सौलर टेक्नोलोजी संयन्त्रों का बहुत उपयोग हो सकता है। भीलवाडा के टेक्सटाइल उद्योग में जहां बड़े-बड़े उत्पादन शेड एवं छत है, वहां इस तरह के संयन्त्र स्थापित किये जा सकते हैं। इसके लिए केन्द्र के अक्षय ऊर्जा मंत्रालय की ओर से आर्थिक अनुदान भी उपलब्ध कराया जा रहा है।

उन्होंने कहाकि अक्षय ऊर्जा के उपयोग में राजस्थान देश में अग्रणी स्थान रखता है। विशाल भूभाग एवं वर्ष के अधिकांश समय अच्छी सूर्य की रोशनी प्राप्त होने से राज्य में सौर ऊर्जा के असीम संभावनाएं हैं। राज्य में अभी तक 1295 मेगावाट के सौलर संयन्त्र स्थापित किये जा चुके हैं जिसमें से 152 मेगावाट के कन्सट्रेटेड सौलर टेक्नोलोजी संयन्त्र हैं।

अक्षय ऊर्जा मंत्रालय के तकनीकी अधिकारी श्री कुमार अभिषेक ने बताया कि कन्सट्रेटेड सौलर टेक्नोलोजी में छतरी नूमा ढांचा में कांच या लैंस का उपयोग किया जाकर बड़े क्षेत्रफल पर पडने वाली सूर्य किरणों को एक छोटे केन्द्र बिन्दु पर एकत्रित किया जाकर इससे उत्पन्न होने वाली ऊर्जा से भाप संयन्त्र चलाया जाता है। उन्होंने बताया कि प्रोसेस हाउसों एवं अन्य टेक्सटाइल उद्योग में भाप उत्पादन के लिए भी इस तकनीक का उपयोग किया जा सकता है। पिछले वर्ष में राजस्थान में कोटा, माउण्ट आबू, जयपुर, जैसलमेर, बीकानेर आदि स्थानों पर इस तरह के संयन्त्र स्थापित किये गये हैं। उन्होंने भीलवाडा के टेक्सटाइल उद्योग को इस तरह के संयन्त्र स्थापित करने के लिए आगे आने का आव्हान किया, जिसके लिए संयंत्र लगाने वाली कम्पनी अपने स्तर पर खर्च वहन कर संयन्त्र स्थापित करने के लिए तैयार है। कार्यशाला में श्री संजीव कच्छावा मुख्य अधिकारी के एनर्जी जोधपुर एवं श्री जयसिन्हा राठौड, सीईओ इण्डिया वन आदि ने विभिन्न केस स्टेडी प्रस्तुत की।



**Concentrated Solar Technologies
An Introduction**


25TH NOVEMBER, 2016
MEWAR CHAMBER OF COMMERCE AND INDUSTRIES, BHILWARA

Sunit Mathur
General Manager

Rajasthan Renewable Energy Corporation Ltd, Jaipur


RE Deployment in Rajasthan

• Total RE (As on date)	5420 MW
Solar	1295 MW
- PV	1142.50 MW
- CST	152.50 MW
Wind	4006 MW
Biomass	119.25 MW
• MOU signed for	26000 MW



RAJASTHAN – SOLAR ADVANTAGE

- Leading State in India for RE deployment – Specially Solar.
- RE Policies are investor friendly
 - Solar Policy 2014
 - Wind Policy 2012
 - Biomass Policy 2010
- Regulatory Framework well defined for Net Metering for grid connected Solar rooftops.
- Development of Solar Parks in advanced Stage of completion.
- Higher capacity allocations under NSM



India Solar Resource
Direct Normal Solar Resource

CST's – Application Spectrum

CST : A versatile technology beside power generation Vast application possibilities in :

- Process steam requirements (Textile, Dairy, Food etc)
- Pre heating applications (Boiler water , Iron & Steel , Pulp & Paper etc)
- Community cooking (Religious places, Hostels, Police/Armed forces barracks, Jails, etc)
- Space cooling /Air conditioning
 - Some Installations in Rajasthan
 - ❖ 3 projects at Brahmakumaris, Mount Abu – 1045 m²
 - ❖ Heavy Water Board, DAE, GOI, Kota – 676 m²
 - ❖ NPCIL, Kota (Space Cooling) – 641 m²
 - ❖ Global Hospital, Mount Abu – 252 m²
 - ❖ MNIT Jaipur – 102 m²
 - ❖ University of Rajasthan, Jaipur – 64 m²
 - ❖ OTS Jaipur - 48 m²
 - ❖ Hindumal Kot BSF Ganganagar – 48 m²

CST's in Rajasthan (Power Generation)

Sl.	Project	Size & Technology	Location	Status
1	ACME	2.5 MW	Bikaner	Commissioned
2	Godavri Green	50 MW Parabolic Trough	Nokh Jaisalmer (Raj)	Commissioned
3	Reliance Power	100 MW Linear Fresnel	Dhursar Jaisalmer (Raj)	Commissioned
4	Lanco Solar 'Diwakar '	100 MW Parabolic trough + 4 Hr storage	Askandra, Jaisalmer	Ongoing
5	KVK Energy ventures	100 MW Parabolic Trough	Askandra, Jaisalmer	Ongoing
6	Abhijeet (Ispat Alloy)	50 MW Parabolic Trough	Nokh , Jaisalmer	Ongoing

Rajasthan : Some CST Visuals



Reliance Power



ACME

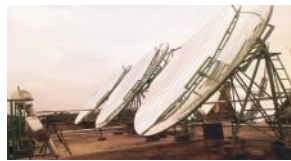


Godavri Green

CST's - Application Spectrum.....Contd.



Brahmakumari's Mt. Abu



MNIT Jaipur



CST's - Application Spectrum...Contd.

Recently Installed System (Textile Industry Application)

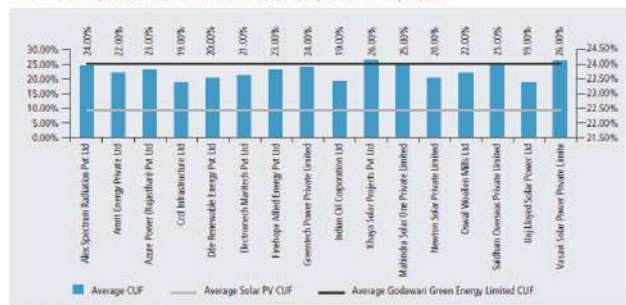
Navkar Textile Industry , Jodhpur



Application : Steam Generation
 Dishes : 12 No's (16 Sq. Mtr. each)
 Project Cost : 36 lacs
 Fuel Replacement : 660 Tons Firewood (75% replacement)
 Annual CO2 Savings : 1320 Tons
 Payback Period : 3 Yrs

CST : Performance

Graph 4: Comparison of CUF for SPV and CSP plants in Rajasthan



Source: NTPC Net Exported Power Summary

Advancing CST's : Way Ahead

- The potential of CST is immense. Need to promote awareness and projects.
- RRECL is organising workshops on CST's at Bhilwara, Bhiwadi and Jaipur in Nov/Dec 2016 followed by more at other Industrial Centres.
- Subsidy/Grant available to popularise the CST's.
- Success stories of CST's in Indian context available for different sectors.

CANCER DIAGNOSIS & CHECK UP CAMP

Bhilwara Cancer Care (Dr P M Beswal) is organized a Cancer Diagnosis & check up camp (monthly activities) at Porwal Hospital on Sunday the 27th Nov 2016 from 10.30 am to 2.00 pm. Dr Lalit Mohan of Bhagwan Mahaveer Cancer Hospital, Jaipur gave his services.

Also Bhilwara Cancer Care in association with other organization organized a RUN BHILWARA, to give message against cancer on 27th Nov 2016 at 6.30 am to 8.30 am. Starting Suchana Kendra Bhilwara, about 1000 children and others participated.

ग्लोबल राजस्थान एग्रीटेक मीट (ग्राम)

राजस्थान सरकार एवं फिक्की के संयुक्त तत्वावधान में बुधवार से जयपुर एक्जिबिशन एवं कन्वेंशन सेन्टर में 9 से 11 नवम्बर 2016 को तीन दिवसीय ग्लोबल राजस्थान एग्रीटेक मीट में मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री के पूर्वाध्यक्ष डॉ पी एम बेसवाल के नेतृत्व में चेम्बर का एक प्रतिनिधिमण्डल ने भाग लिया।

प्रतिनिधिमण्डल ने इसके साथ 9 नवम्बर को माननीया मुख्यमंत्री श्रीमति वसुन्धरा राजे के साथ राज्य में एग्रीटेक उद्योगों को बढ़ावा देने के लिए एक इन्टरएक्टिव बैठक में भी भाग लिया।

तीन दिवसीय आयोजन में कृषि, कृषि प्रोसेसिंग, उपकरण, कृषि खाद एवं केमीकल, बायो टेक्नोलॉजी, बायोफर्टीलाइजर, हाईब्रीड बीज, सौर उर्जा, ड्रिप सिंचाई, ग्रीन हाउस टेक्नोलॉजी, डेयरी, ऑर्गेनिक फार्मिंग आदि से संबंधित उद्योगों की प्रदर्शनी के साथ विभिन्न विषयों पर विशेषज्ञों की ओर से कार्यशालाएं आदि का आयोजन हुआ। चेम्बर के प्रतिनिधिमण्डल ने भीलवाडा जिले में एग्रीटेक उद्योगों को बढ़ावा देने के लिए विभिन्न संस्थाओं एवं उद्योगों से चर्चा की।

मेवाड चेम्बर की ओर से भेजे गये प्रतिवेदन

MCCI/RBI/2016-2017/254

Dated 10.11.2016

Shri P.Vijay Kumar
Chief General Manager
Department of Currency Management.
Central Office, 4 th Floor, Amar Building,
Sir P.M. Road. P.B. No.1379,
Mumbai-400 001 (India)
Email:cgmincdcm@rbi.org.in

Sub:-Demonitization of 500 & 1000 currency notes-withdrawal limit of Rs 10,000/- for large industrial units, corporate houses etc.

Dear Sir,

Mewar Chamber of Commerce & Industry, the divisional chamber of South Rajasthan, representing large number of cement, textiles and other industrial units, welcome the step Demonitization of 500 & 1000 currency notes to curb the black money and terrorism financing.

Subsequent to this, RBI has put a limit of Rs 10,000/- for withdrawal of new currency from banks for all types of customers alike-SB account holders, Current account holders, Large industrial units and corporate houses. The amount of Rs 10,000/- is all right for individual person for house hold expenses but for industrial units and corporate houses, it is a very meagre amount causing lot of practical problems for them.

The industrial have to make large cash payments for many purposes like freight payment for inward goods, for outward cargo, for many type of overtime, incentives to workmen, postage and various misc expenses amounting to about Rs 25 lacs, 50 lacs-1 crore per day. Due to withdrawal limit of Rs 10,000/- they are unable to withdraw sufficient from Bank for their day to day operations. At many industrial units large number of trucks and other vehicals have lined up for want of payment and there are chaos and many industrial units. Hence, we request your goodself to allow withdrawal of about Rs 25 lacs, 50 lacs-1 crore per day to large industrial units, corporate houses, depending on their past day to day requirements. Practically all such accounts are served by specified bank branches and their should be no problem to fund such branches from RBI directly.

We hope you will kindly consider our above submission and will issue necessary instruction immediately, so as to end chaos at such industrial units.

With Best Regards

Yours Truely

For Mewar Chamber of Commerce & Industry,

(Anil Mansinghka)
President

CC: The Regional Director, RBI, Jaipur
The Joint Secretary (Revenue), Ministry of Finance, New Delhi

Hon'ble Smt Smriti Irani
Hon'ble Minister for Textiles
Govt of India, New Delhi.

Sub:-Demonitization of 500 & 1000 currency notes-to sustain industrial production request for increase in export incentives and other steps.

Respected Madam,

Mewar Chamber of Commerce & Industry, the divisional chamber of South Rajasthan, representing large number of cement, textiles and other industrial units, welcome the step Demonitization of 500 & 1000 currency notes to curb the black money and terrorism financing. Subsequent to this, due to shortage of currency in the market, the textile industry is facing demand shortage which is affecting its production and employment of thousands of people. Large numbers of textile units are on the verge of closure due to slump in the market. In the present situation, export is the only way to bail out the industry. From Bhilwara about 45-50% of spinning production, 10-15% of fabric production is exported in normal conditions, now due to weakening of rupee, the export is also down. On the other hand for coming months, it is very essential for the industry to increase exports from present level. We suggest that :-

- 1 The duty draw back and export incentives under MEIS and interest subvention on export finance should be increased for atleast six month to one year.
- 2 The loan instalements and interest becoming due should be given mortarium of six months.
- 3 The industrial have to make large cash payments for many purposes like freight payment for inward goods, for outward cargo, for many type of overtime, incentives to workmen, postage and various misc expenses amounting to about Rs 25 lacs, 50 lacs-1 crore per day. Hence, we request to allow withdrawal of atleast 50% of average withdrawl of units during last six months. Practically all such accounts are served by specified bank branches and there should be no problem to fund such branches from RBI directly.

We hope you will kindly consider our above submission and will take up the matter with the Ministry of Commerce & other departments for doing the needful in the matter.

With Best Regards

Yours Truely

For Mewar Chamber of Commerce & Industry,

(S.P.Nathany)
Hon'y Secretary General

Circular No.1050/38/2016-CX F.No. 207/05/2014-CX.6
Government of India, Central Board of Excise and Customs

Sub: Combined Annual Return Form for Central Excise and Service Tax-reg.

Madam/ Sir,

Kind attention is invited to Notification No. 8/2016-CE(N.T.) (Sl.No.5) dated 01.03.2016 and Notification No.13/2016-CE(N.T.) (Sl.No.9) dated 01.03.2016 vide which Rule 12 of Central Excise Rules, 2002 and Rule 9A of CENVAT Credit Rules, 2004, respectively, were amended to replace the existing Central Excise Forms ER-4 to ER-7 with an Annual Return form. On the service tax side, vide Notification No, 19/2016-ST dated 01.03.2016, Rule 7 of the Service Tax Rules, 1994 was amended to prescribe an annual return. In terms of Rule 12 of Central Excise Rules, 2002 and Rule 7 of the Service Tax Rules, 1994, the format of the Annual Return, which was required to be filed by 30th day of November, was to be specified by the Board by notification.

2. In view of impending implementation of Goods and Service Tax (GST) is has been decided that, the aforesaid Annual Return shall not be required to be filed for the year 2015-16, which is due to be filed by 30.11.2016. After implementation of GST, Annual Return for non-GST goods only may be required. A final view on the same would be taken after due consultation with the trade.

3. Trade may be suitably informed that the aforesaid Combined Annual Return for 2015-16 is not required to be filed. Difficulties, if any, in the implementation of above Circular may be brought to the notice of the Board. Hindi version will follow.

(Shankar Prasad Sharma)

Under Secretary to the Govt of India

Hon'ble Smt Vasundhra Raje
 Hon'ble Chief Minister
 Govt of Rajasthan
 Jaipur.

Sub:-Demonitization of 500 & 1000 currency notes-to sustain industrial production request for increase in export incentives and other steps.

Respected Madam,

Mewar Chamber of Commerce & Industry, the divisional chamber of South Rajasthan, representing large number of cement, textiles and other industrial units, welcome the step Demonitization of 500 & 1000 currency notes to curb the black money and terrorism financing.

Subsequent to this, due to shortage of currency in the market, the textile industry is facing demand shortage which is affecting its production and employment of thousands of people. Large numbers of textile units are on the verge of closure due to slump in the market. In the present situation, export is the only way to bail out the industry. From Bhilwara about 45-50% of spinning production, 10-15% of fabric production is exported in normal conditions, now due to weakening of rupee, the export is also down. On the other hand for coming months, it is very essential for the industry to increase exports from present level. We suggest that :-

- 1 The interest and other incentives under RIPS and textile package should be increase by 2% for promoting exports.
- 2 The loan instalments of RIICO & RFC and interest becoming due should be given moratorium of six months.
- 3 The electricity rates should be reduced by 25% to make textile production competitive in export market and duty on electricity and other surcharge should be withdrawn for atleast six months for textile units.

We hope you will kindly consider our above submission and will issue necessary instructions for doing the needful in the matter.

With Best Regards

Yours Truly

For Mewar Chamber of Commerce & Industry,

(S.P.Nathany)

Hon'y Secretary General

CC: Hon'ble Shri Gajendra Singh Khimsar, Minister of Industries, Govt of Rajasthan, Jaipur.

The Chairman, RIICO Ltd / The Managing Director, RFC, Jaipur

Taxation Laws (Second Amendment) Bill, 2016 introduced in Lok Sabha; A scheme namely, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY) proposed in the Bill.

Evasion of taxes deprives the nation of critical resources which could enable the Government to undertake anti-poverty and development programmes. It also puts a disproportionate burden on the honest taxpayers who have to bear the brunt of higher taxes to make up for the revenue leakage. As a step forward to curb black money, bank notes of existing series of denomination of the value of Rs.500 and Rs.1000 [Specified Bank Notes(SBN)] have been recently withdrawn the Reserve Bank of India.

Concerns have been raised that some of the existing provisions of the Income-tax Act, 1961 (the Act) can possibly be used for concealing black money. The Taxation Laws (Second Amendment) Bill, 2016 ('the Bill') has been introduced in the Parliament to amend the provisions of the Act to ensure that defaulting assesseees are subjected to tax at a higher rate and stringent penalty provision.

Further, in the wake of declaring specified bank notes "as not legal tender", there have been suggestions from experts that instead of allowing people to find illegal ways of converting their black money into black again, the Government should give them an opportunity to pay taxes with heavy penalty and allow them to come clean so that not only the Government gets additional revenue for undertaking activities for the welfare of the poor but also the remaining part of the declared income legitimately comes into the formal economy.

In this backdrop, an alternative Scheme namely, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY) has been proposed in the Bill. The declarant under this regime shall be required to pay tax @ 30% of the undisclosed income, and penalty @10% of the undisclosed income. Further, a surcharge to be called 'Pradhan Mantri Garib Kalyan Cess' @33% of tax is also proposed to be levied. In addition to tax, surcharge and penalty (totaling to approximately 50%), the declarant shall have to deposit 25% of undisclosed income in a Deposit Scheme to be notified by the RBI under the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. This amount is proposed to be utilised for the schemes of irrigation, housing, toilets, infrastructure, primary education, primary health, livelihood, etc., so that there is justice and equality.

An overview of the amendments proposed in the Bill are placed below;

Overview of Amendments Proposed

PARTICULARS	EXISTING PROVISIONS	PROPOSED PROVISIONS
General provision for penalty	<u>PENALTY (Section 270A)</u> Under-reporting - @50% of tax Misreporting - @200% of tax (Under-reporting/ Misreporting income is normally difference between returned income and assessed income)	No changes proposed
Provisions for taxation & penalty of unexplained credit, investment, cash and other assets	<u>TAX (Section 115BBE)</u> Flat rate of tax @30% + surcharge + cess (No expense, deductions, set -off is allowed)	<u>TAX (Section 115BBE)</u> Flat rate of tax @60% + surcharge @25% of tax (i.e. 15% of such income). So total incidence of tax is 75% approx. (No expense, deductions, set-off is allowed) <u>PENALTY (Section 271AAC)</u> If Assessing Officer determines income referred to in section 115BBE, penalty @10% of tax payable in addition to tax (including surcharge) of 75%.
Penalty for search seizure cases	<u>Penalty (271AAB)</u> (i) 10% of income, if admitted, returned and taxes are paid (ii) 20% of income, if not admitted but returned and taxes are paid (iii) 60% of income in any other case	<u>Penalty (271AAB)</u> (i) 30% of income, if admitted, returned and taxes are paid (ii) 60% of income in any other case
Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY)	New Taxation and Investment Regime	Undisclosed income in the form of cash & bank deposit can be declared: <u>(A) Tax, Surcharge, Penalty payable</u> Tax @30% of income declared Surcharge @33% of tax Penalty @10% of income declared Total @50% of income (approx.) <u>(B) Deposit</u> 25% of declared income to be deposited in interest free Deposit Scheme for four years.

ENTRY TAX LEVY UPHELD BY THE SUPREME COURT

The Hon'ble Supreme Court on November 11, 2016, has upheld the constitutional validity of Entry tax imposed by States. A nine-judge Constitution Bench, overruling 'compensatory tax' theory propounded by 7 judges bench in the case of *Atiabari Tea Co. Ltd. Vs. State of Assam & Ors. [AIR 1961 SC 232]*, declared that it does not restrict freedom of trade or other constitutional provisions on Inter-State trade.

We are sharing with you a landmark judgement of the Hon'ble Supreme Court of India in the case of *Jindal Stainless Ltd. & Anr. Vs. State of Haryana & Ors. [TS-455-SC-2016-VAT]*, on the following issues:

Issues:

- Can the levy of a non-discriminatory tax per se constitute infraction of Article 301 of the Constitution of India?
- If answer to question above is in the affirmative, can a tax which is compensatory in nature also fall foul of Article 301 of the Constitution of India?
- What are the tests for determining whether the tax or levy is compensatory in nature?
- Is the Entry tax levied by the States is violative of Article 301 of the Constitution and in particular have the impugned State enactments relating to Entry tax to be tested with reference to both Articles 304(a) and 304(b) of the Constitution for determining their validity?

Facts & Background:

These appeals bring to fore for determination of vexed questions touching the interpretation of Articles 301 to 307 comprising Part XIII of the Constitution of India, which have been the subject matter of several Constitution Bench decisions of the Hon'ble Supreme Court, all but one, decided by majority.

In exercise of their legislative powers under Entry 52 of List II of the Seventh Schedule to the Constitution, several States in the country, at least 14 of whom are parties to these proceedings, have enacted laws that provide for levy of a tax on the "entry of goods into local areas comprising the States". The constitutional validity of these levies was questioned in the different High Courts by assesses/dealers aggrieved of the same, inter alia, on the ground that the same were violative of the constitutionally recognised right to free trade commerce and intercourse guaranteed under Article 301 of the Constitution of India. Article 301 of the Constitution of India is reproduced hereunder for ease of reference:

"301. Freedom of trade, commerce and intercourse:

Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free."

The levies were also assailed on the ground that the same were discriminatory and, therefore, violative of Article 304(a) of the Constitution of India. Absence of Presidential sanction in terms of Article 304(b) of the Constitution of India was also set-up as a ground of challenge to the levies imposed by the respective State legislatures. Article 304 of the Constitution of India is reproduced hereunder for ease of reference:

"304. Restrictions on trade, commerce and intercourse among States:

Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law-

(a) impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interests:

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

Writ Petition (Civil) No. 8700 of 2000 filed before the High Court of Punjab and Haryana was one such petition that assailed the constitutional validity of the Haryana Local Development Act, 2000. Relying upon the decisions of the Hon'ble Supreme Court in the case of *Atiabari Tea Co. Ltd. Vs. State of Assam & Ors.* [AIR 1961 SC 232] (“Atiabari case”), *Automobile Transport (Rajasthan) Ltd. etc. Vs. State of Rajasthan & Ors.* [AIR 1962 SC 1406] (“Automobile Transport case”), *M/s. Bhagatram Rajeev Kumar Vs. Commissioner of Sales Tax, M.P. and Ors.* [(1995 Supp [1] SCC 673)] (“Bhagatram case”) and *State of Bihar and Ors. Vs. Bihar Chamber of Commerce and Ors* [(1996) 9 SCC 136] (“Bihar Chamber case”), a Division Bench of the Hon'ble High Court of Punjab and Haryana dismissed the said petition and connected matters on the ground that the levy was compensatory in character hence outside the purview of Article 301 of the Constitution.

The correctness of the said order was assailed before the Court in *Jindal Stripe Ltd. and Anr. Vs. State of Haryana and Ors.* [(2003) 8 SCC 60] (“Jindal Stripe case”). A two-Judge Bench of the Court, however, referred the matter to a larger Bench as it noticed an apparent conflict between the pronouncements of the Court in Atiabari and Automobile Transport cases on the one hand and Bhagatram and Bihar Chamber cases on the other.

The matters were, pursuant to the above, placed before a Constitution Bench of the Court in the case of *Jindal Stainless Ltd. and Anr. Vs. State of Haryana and Ors.* [(2006) 7 SCC 241] (“Jindal Stainless case”), which resolved the conflict noticed in the reference order by holding that the working test propounded by seven Judges in Automobile Transport case was incompatible with the test of 'some connection' enunciated by the three Judge Bench in Bhagatram case. The Court held that the test of 'some connection' as propounded in Bhagatram case had no application to the concept of compensatory tax. The Court, accordingly, overruled the decisions rendered in Bhagatram and Bihar Chamber cases and held that the doctrine of 'direct and immediate effect' of the impugned law on trade and commerce under Article 301 as propounded in Atiabari case and the working test enunciated in Automobile Transport case for deciding whether a tax is compensatory or not will continue to apply.

The matters were, in terms of the above direction, listed before a two-Judge bench for hearing of the appeals in the light of the above pronouncement of the Constitution Bench. The two-Judge Bench, however, noticed that although the basic issue in the appeals revolved around the concept of compensatory tax, the High Courts had not examined the same as they had considered themselves bound by the view taken in Bhagatram and Bihar Chamber cases. The Court further found that in the absence of relevant data before the High Courts, the issue whether the levies were compensatory could not have been considered and accordingly referred the matter back to the High Courts to decide the said aspect. The appeals were, in the meantime, adjourned to await the finding from the High Courts on the question whether the levies were indeed compensatory in nature having regard to the decisions of this Court in Atiabari and Automobile Transport cases.

The matters were accordingly taken up by the High Courts, after the remand, who came to the conclusion that the impugned levies were neither compensatory in character nor was the procedure stipulated by Article 304(b) and the proviso to the same followed. The levies were on that basis held to be in violation of Article 301 being an impediment to free trade, commerce and intercourse and accordingly struck down. The High Courts of Assam, Arunachal Pradesh, Jharkhand, Kerala and Tamil Nadu also struck down the levies imposed by their respective States also on the ground that they were discriminatory in nature hence violative of Article 304(a) of the Constitution.

All these judgments and orders of the High Courts, passed after the remand, then, challenged by the States concerned in the appeals filed against the same. These appeals initially came-up before a two-Judge Bench of the Court comprising Justice Arijit Pasayat and Justice S.H. Kapadia. Their Lordships referred the same to a Constitution Bench for an authoritative pronouncement on as many as ten questions formulated in the reference order (*Jaiprakash Associates Limited Vs. State of Madhya Pradesh and Ors.* [(2009) 7 SCC 339]). The Court noticed the arguments advanced on behalf of the assesseees that Entry taxes were, in essence and in the classical sense, in the nature of 'a fee' and not 'a tax'. It also noted the contention that all the cases on which the parties had placed reliance related to Entry tax in the context of tax on vehicles in contradiction to taxes on entry of goods. The Court was of the view that while the Constitution Bench in Jindal Stainless case had dealt with some aspects of the matter, certain other important constitutional issues remained to be examined especially because a conceptually

and contextually different approach may be required vis-à-vis “transport cases” on the one hand and cases of “entry tax on goods” on the other.

The matter was accordingly placed before a five-Judge Bench of this Court in the case of *Jindal Stainless Limited and Anr. Vs. State of Haryana and Ors. [(2010) 4 SCC 595]*, who briefly referred to the decisions in Atiabari, Automobile Transport cases and *Keshav Mills Co. Ltd. Vs. CIT [(AIR 1965 SC 1636)]* and a few others and referred the matters to a larger Bench for reconsideration of the judgment of this Court in Atiabari and Automobile Transport cases. The Court noted that the correctness of the view taken in the said two cases had been doubted as early as in the year 1975 in *G.K. Krishnan Vs. State of Tamil Nadu [(1975) 1 SCC 375]*. The reference order briefly set out some of the questions that required consideration by a larger Bench.

Held:

By 7:2 majority, the Hon'ble Supreme Court answered the reference in the following terms:

- Taxes simpliciter are not within the contemplation of Part XIII of the Constitution of India. The word 'Free' used in Article 301 does not mean “free from taxation”.
- Only such taxes as are discriminatory in nature are prohibited by Article 304(a) of the Constitution. It follows that levy of a non-discriminatory tax would not constitute an infraction of Article 301.
- Clauses (a) and (b) of Article 304 of the Constitution have to be read disjunctively.
- A levy that violates Article 304(a) of the Constitution cannot be saved even if the procedure under Article 304(b) or the proviso thereunder is satisfied.
- The compensatory tax theory evolved in Automobile Transport case and subsequently modified in Jindal Stainless case has no juristic basis and is therefore rejected.
- Decisions of this Court in Atiabari, Automobile Transport and Jindal Stainless cases and all other judgments that follow these pronouncements are to the extent of such reliance overruled.
- A tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing State.
- Article 304(a) of the Constitution frowns upon discrimination (of a hostile nature in the protectionist sense) and not on mere differentiation. Therefore, incentives, set-offs etc. granted to a specified class of dealers for a limited period of time in a non-hostile fashion with a view to developing economically backward areas would not violate Article 304(a) of the Constitution. The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
- States are well within their right to design their fiscal legislations to ensure that the tax burden on goods imported from other States and goods produced within the State fall equally. Such measures if taken would not contravene Article 304(a) of the Constitution. The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
- The questions whether the entire State can be notified as a local area and whether Entry tax can be levied on goods entering the landmass of India from another country are left open to be determined in appropriate proceedings.

Contributed by Shri Bimal Jain

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PROPOSED GST RATES

Following four tier GST rates have been finalized by the GST Council in its meeting on 3rd November, 2016:

Rate	Description
5%	Lower rate for mass consumption goods i.e. medicines, spices etc.
12%	Merit rate for necessity goods
18%	Standard rate for all common goods
28%	Higher rate for luxury and demerit goods
28%+ cess	Luxury cars, tobacco, pan masala, aerated drinks

Cess collection, to be deposited in compensation pool, which will be used to compensate states for five years.

Zero tax rate will apply to 50% of the items present in the Consumer Price Index basket, including food grains such as rice and wheat.

A technical committee comprising Central and State government officials constituted to finalize the allocation of products/services into different rate categories.

The tax rate on gold will be decided after this allocation of products/services.

GST-FAQ (Released by CBEC)-PART-4

JOB-WORK

Q 1. What is job-work?

Ans. Section 2(62) of the MGL provides that “job-work” means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression “job-worker” shall be construed accordingly.

This definition is much wider than the one given in Notification No. 214/86 – CE dated 23rd March, 1986 as amended, wherein job-work has been defined in such a manner so as to ensure that the activity of job-work must amount to manufacture. Thus the definition of jobwork itself reflects the change in basic scheme of taxation relating to job-work in the proposed GST regime.

Q 2. Whether goods sent by a taxable person to a job-worker will be treated as supply and liable to GST? Why?

Ans. No. It will not be treated as a supply. In terms of proviso to Para 5 of Schedule I of the MGL the supply of goods by a registered taxable person (principal) to jobworker, in terms of Section 43A, shall not be regarded as supply of goods. Therefore, it can be inferred that no GST shall be applicable on the goods supplied by the registered principal to a job-worker.

Q 3. Can a registered taxable person send goods without payment of tax to his job-worker?

Ans. Yes. Section 43A of the MGL provides that the registered taxable person (principal) can send the taxable goods to a job-worker for job-work without payment of tax. He can further send the goods from one job-worker to another job-worker and so on subject to certain condition. It may be noted that provisions of Section 43A are not applicable if non-taxable or exempted goods are proposed to be sent for job-work.

Q 4. Is a job-worker required to take registration?

Ans. Yes, as a Job-worker would be a supplier of services, he would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold.

Q 5. Whether the goods of principal directly supplied from the job-worker's premises will be included in the aggregate turnover of the jobworker?

Ans. No. It will be included in the aggregate turnover of the principal.

Q 6. Can the principal supply the goods directly from the premises of the job-worker without bringing it back to his own premises?

Ans. Yes but with a rider that the principal should have declared the premises of such job-worker as his additional place of business or where the job-worker is a registered person or where the goods have been notified.

Q 7. Under what circumstances can the principal directly supply goods from the premises of job-worker?

Ans. The goods can be supplied directly from the place of business of job-worker without declaring it as additional place of

business in two circumstances namely where the job-worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified in this behalf.

Q 8. What are the provisions concerning taking of ITC in respect of inputs/capital goods sent to a job-worker?

Ans. In the MGL, aspects relating to taking input tax credit in respect of inputs/capital goods sent for job-work have been specifically dealt in Section 16A, which provides that the credit of taxes paid on inputs or capital goods can be taken in the following manner: Principal shall be entitled to take credit of inputs sent to a job-worker if the said inputs, after completion of job-work are received back in 180 days from the date of being sent out. In case the inputs are sent directly to the job-worker, the date shall be counted from the date of receipt of inputs by job-worker. Further an amount equivalent to the input tax credit availed on such inputs has to be paid along with interest, in case the inputs are not received back within the specified time. The credit can be reclaimed when the inputs are actually received back.

Q 9. Are the provisions of job-work applicable to all category of goods?

Ans. No. The provisions relating to job-work are applicable only when registered taxable person intends to send taxable goods. In other words, these provisions are not applicable to exempted or non-taxable goods or when the sender is a person other than registered taxable person.

INPUT TAX CREDIT

Q 1. What is input tax?

Ans. "Input tax" has been defined in section 2 (57) of the MGL and section 2 (1) (d) of the IGST Act. Input tax in relation to a taxable person, means the {IGST and CGST} in respect of CGST Act and {IGST and SGST} in respect of SGST Act, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7. Under the IGST Act, input tax is defined as IGST, CGST or SGST charged on any supply of goods and / or services.

Q 2. What is the implication of different definition of "input tax" in three acts viz CGST, SGST and IGST Acts?

Ans. It implies that input tax consists of IGST & CGST in CGST Act and IGST & SGST in SGST Act. In the IGST Act, input tax consists of all three taxes namely, IGST, CGST and SGST. It further implies that credit of all three can be used for discharging IGST liability, whereas only credit of IGST & CGST can be taken in CGST Act and that of IGST & SGST can be taken under SGST Act. Further the credit of CGST & SGST cannot be cross-utilized.

Q 3. Can GST paid on reverse charge be considered as input tax?

Ans. Yes. The definition of input tax includes the tax payable under sub-section (3) of section 7 (Reverse Charge). The credit can be availed if such goods and/or services are used, or are intended to be used, in the course or furtherance of his business.

Q 4. Does input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and/ or capital goods?

Ans. Yes, in terms of section 2(54), 2(55) & 2(20) of the MGL respectively. It may be noted that credit of tax paid on capital goods also is permitted to be availed in one instalment.

Q 5. What is the ITC entitlement of a person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration? (Section 16(2))

Ans. He shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act. It may be noted that the credit on pre-registration stock would not be admissible if the registration has not been obtained within a period of 30 days from the date on which he becomes liable to registration.

Q 6. A person becomes liable to pay tax on 1st August, 2017 and has obtained registration on 15th August, 2017. Such person is eligible for input tax credit on inputs held in stock as on

Ans. 31st July, 2017.

Q 7. What is the eligibility of input tax credit on inputs in stock for a person who obtains voluntary registration?

Ans. As per section 16(2A) of MGL, the person who obtains voluntary registration is entitled to take the input tax credit of input tax on inputs in stock, inputs in semifinished goods and finished goods in stock, held on the day immediately preceding the date of registration.

Q 8. Where goods and/or services received by a taxable person are used for effecting both taxable and non-taxable

supplies, whether the input tax credit is available to the registered taxable person?

Ans. As per section 16(6) of MGL, the input tax credit of goods and / or service attributable to only taxable supplies can be taken by registered taxable person. The amount of eligible credit would be calculated in a manner to be prescribed in terms of section 16(7) of the MGL read with GST ITC Rules (yet to be issued). It is important to note that credit on capital goods also would now be permitted on proportionate basis.

Q 9. Where goods and/or services received by a taxable person are used for the purpose of business and non-business supplies, whether the input tax credit is available to the registered taxable person?

Ans. As per section 16(5) of the MGL, the input tax credit of goods and / or service attributable to only supplies effected for business purpose can be taken by registered taxable person. The amount of eligible credit would be calculated in a manner to be prescribed in terms of section 16(7) of the MGL read with GST ITC Rules (yet to be issued). It is important to note that credit on capital goods also would now be permitted on proportionate basis.

Q 10. What would be input tax eligibility in cases where there is a change in the constitution of a registered taxable person?

Ans. As per section 16(8) of the MGL, the transferor shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to the transferee provided that there is a specific provision for transfer of liabilities.

Q 11. What would be input tax eligibility in case where the goods and/or services supplied by a registered taxable person become absolutely exempt?

Ans. As per section 16(12) of the MGL, the registered taxable person who supplies goods and / or services which become absolutely exempt, has to pay an amount equivalent to the input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such exemption. It has also been provided that after payment of the amount on such goods, the balance, if any available in electronic credit ledger would lapse. The amount, required to be paid, is to be calculated as per GAAP in terms of section 16(13) of the MGL.

Q 12. What would be input tax eligibility in cases where taxable person paying tax under section 7 opts to pay tax under Compounding Scheme under Section 8?

Ans. As per section 16(12) of the MGL, the registered taxable person, who was paying tax under section 7 opts to pay tax under Compounding Scheme under Section 8, has to pay an amount equivalent to the input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over. It has also been provided that after payment of the amount on such goods, the balance, if any available in electronic credit ledger would lapse. The amount, required to be paid, is to be calculated as per GAAP in terms of section 16(13) of the MGL.

Q 13. A dealer paying tax on compounding basis crosses the compounding threshold and becomes a regular taxable person. Can he avail ITC and if so from what date?

Ans. As per section 16(3) of the MGL, he can avail ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.

Q 14. Mr. B, a registered taxable person was paying tax under composition rate up to 30th July, 2017. However, w.e.f 31st July, 2017. Mr. B becomes liable to pay tax under regular scheme. Is he eligible for ITC?

Ans. Mr. B is eligible for input tax credit on inputs held in stock and inputs contained in semi-finished or finished goods held in stock as on 30th July, 2017.

Q 15. Mr. A applies for voluntary registration on 5th June, 2017 and obtained registration on 22nd June, 2017. Mr. A is eligible for input tax credit on inputs in stock as on

Ans. Mr. A is eligible for input tax credit on inputs held in stock and inputs contained in semi-finished or finished goods held in stock as on 21st June, 2017.

Q 16. When shall a taxable person be not entitled to take input tax credit under sub-section (2), (2A) or sub-section (3) of Section 16 in respect of any supply of goods and / or services to him?

Ans. As per section 16(4) of the MGL, he cannot avail ITC after the expiry of one year from the date of issue of tax invoice relating to such supply.

Q 17. Whether the principal is eligible to avail input tax credit of inputs sent to job worker for job work?

Ans. Yes, the principal is eligible to avail the input tax credit on inputs sent to job worker for job work in terms of Section 16A(2) of the MGL.

Q 18. What is the time period within which the inputs sent for job work has to be received back by the principal?

Ans. 180 days.

Q 19. Whether principal has to reverse the input tax credit on inputs which have not been received back from the job worker within 180 days?

Ans. Yes, the principal has to reverse the credit along with interest on inputs which have not been received back from job worker within 180 days but he can reclaim the credit on receipt of inputs.

Q 20. Which of the following is included for computation of taxable supplies for the purpose of availing credit:

- (a) Zero-rated supplies;
- (b) Exempt supplies;
- (c) Both?

Ans. Zero rated supplies.

Q 21. What is the time period within which the capital goods sent for job work has to be received back by the principal?

Ans. Two years.

Q 22. What is the liability of the principal if the capital goods sent to job worker have not been received within 2 years from the date of being sent?

Ans. Principal has to pay an amount equal to credit taken on such capital goods along with interest. But he can reclaim the credit on receipt of inputs.

Q 23. A Taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

Ans. No. As per section 16(9)(a) of the MGL, ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or goods or is providing the services of imparting training on motor vehicles.

Q 24. Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, will ITC be allowed in such cases?

Ans. As per section 16(10) of the MGL, the input tax credit shall not be allowed on the said tax component.

Q 25. What are the conditions necessary for obtaining ITC?

Ans. As per Section 16(11) of the MGL, following four conditions are stipulated:

- (a) The registered taxable person should be in possession of tax paying document issued by a supplier;
- (b) The taxable person must have received the goods and/ or services;
- (c) The tax charged on such supply has been actually paid to the government either in cash or through utilization of input tax credit; and
- (d) The taxable person should have furnished the return under section 27.

Q 26. Where the goods against an invoice are received in lots or instalments, how will a registered taxable person be entitled to ITC?

Ans. As per proviso to section 16(11) of the MGL, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.

Q 27. Who will get the ITC where goods have been delivered to a person other than taxable person ('bill to'- 'ship to' scenarios)?

Ans. As per explanation clause to section 16(11) of the MGL, for this purpose of receiving the goods, it would be deemed that the taxable person has received the goods when the goods have been delivered to a third party on the direction of such taxable person. So ITC will be available to the person on whose order the goods are delivered to third person.

Q 28. What is the time limit for taking ITC?

Ans. As per Section 16 (15) of the MGL, ITC cannot be taken beyond the month of September of the following FY to which invoice pertains or date of filing of annual return, whichever is earlier. The underlying reasoning for this restriction is that no change in return is permitted after September of next FY. If annual return is filed before the month of September then no change can be made after filing of annual return.

Q 29. Is there any negative list on which ITC is not permitted?

Ans. Section 16 (9) of the MGL provides for the negative list with respect to the admissibility of ITC. It has been provided that the ITC on following items cannot be availed:

- (a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services—
 - (i) transportation of passengers, or
 - (ii) transportation of goods, or
 - (iii) imparting training on motor driving skills;
- (b) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness center, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/ or services are used primarily for personal use or consumption of any employee;
- (c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;
- (d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;
- (e) goods and/or services on which tax has been paid under section 8; and
- (f) goods and/or services used for private or personal consumption, to the extent they are so consumed.

Q 30. Section 29 of the MGL provides that the ITC would be confirmed only if the inward details filed by the recipient are matched with the outward details furnished by the supplier in his valid return. What happens if there is a mismatch?

Ans. In case of mismatch between the inward and outward details, the supplier would be required to rectify the mis-match within a period of two months and if the mis-match continues, the ITC would have to be reversed by the recipient.

Q 31. What will be the tax impact when capital goods on which ITC has been taken are supplied by taxable person?

Ans. As per section 16(15) of the MGL, in case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods, whichever is higher.

Q 32. What is the recovery mechanism for wrongly availed credit?

Ans. As per section 16(16) of the MGL, the wrongly availed credit would be recovered from the registered taxable person in terms of section 51 of MGL.

CONCEPT OF INPUT SERVICE DISTRIBUTOR IN GST

Q 1. What is Input Service Distributor (ISD)?

Ans. As per Section 2(56) of MGL, ISD means an office of the supplier of goods and / or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above. For the purpose of distributing the credit, ISD is deemed as supplier of services.

Q 2. What are the requirements for registration as ISD?

Ans. An ISD is required to obtain registration as a deemed supplier of services [section 19 read with para 5(vii) of Schedule III]. The threshold limit of registration is not applicable to ISD. The registration of ISD under the existing regime (i.e. under

Service Tax) would not be migrated in GST regime. All the existing ISDs will be required to obtain fresh registrations under new regime in case they want to operate as an ISD.

Q 3. What are the conditions/restrictions for distribution of credit?

Ans. The distribution of credit would be done subject to the following conditions:

- a. Credit should be distributed through tax invoice or other document as prescribed;
- b. Amount of credit distributed should not exceed the amount of credit available;
- c. Credit should be distributed only to such suppliers to whom such services are attributable;
- d. Credit in respect of services attributable to more than one supplier should be distributed proportionately on the basis of turnover of respective supplier during the preceding financial year.

Q 4. Is the ISD required to file return?

Ans. Yes, as per Section 27(6) of MGL, ISD is required to file monthly return by 13th of the following month in form GSTR-6.

Q 5. Can a company have multiple ISD?

Ans. Yes, different offices like marketing division, security division etc. may apply for separate ISD.

Q 6. What are the provisions for recovery of excess/ wrongly distributed credit by ISD? Ans. Sections 18(1) and 18(2) provide for recovery of excess/wrongly distributed credit by initiating action against the ISD itself or against the recipient of credit so distributed under section 51 of the Model GST Law.

Q 7. Whether CGST and IGST credit can be distributed by ISD as IGST credit to units located in different States?

Ans. Yes, CGST credit can be distributed as IGST and IGST credit can be distributed as IGST by an ISD for the units located in different States (Section 17(1)).

Q 8. Whether SGST credit can be distributed as IGST credit by an ISD to units located in different States?

Ans. Yes, an ISD can distribute SGST credit as IGST for the units located in different States.(Section 17(2))

Q 9. Whether the ISD can distribute the CGST and IGST Credit as CGST credit?

Ans. Yes, CGST and IGST credit can be distributed as CGST credit by an ISD for the units located in same State.

Q 10. Whether the SGST and IGST Credit can be distributed as SGST credit?

Ans. Yes, ISD can distribute SGST and IGST credit for the units located in same State.

Q 11. What are the documents through which the credit can be distributed by an ISD?

Ans. The document under which the credit can be distributed is yet to be prescribed. The Act provides that the credit can be distributed only through prescribed document.

Q 12. How to distribute common credit among all the units of an ISD?

Ans. The common credit used by all the units can be distributed by ISD on pro rata basis i.e. based on the turnover of each unit to the aggregate turnover of all the units to which credit is distributed.

Q 13. The ISD may distribute the CGST and IGST credit to recipient outside the State as _____

- (a) IGST
- (b) CGST
- (c) SGST

Ans. (a) IGST.

Q 14. The ISD may distribute the CGST credit within the State as _____

- (a) IGST
- (b) CGST
- (c) SGST
- (d) Any of the above.

Ans. (b) CGST.

Q 15. The credit of tax paid on input service used by more than one supplier is _____

- (a) **Distributed among the suppliers who used such input service on pro rata basis of turnover in such State.**
- (b) **Distributed equally among all the suppliers.**
- (c) **Distributed only to one supplier.**
- (d) **Cannot be distributed.**

Ans. (a) Distributed among the suppliers who used such input service on pro rata basis of turnover in such State.

Q 16. Whether the excess credit distributed could be recovered by the department?

Ans. Yes, excess credit distributed could be recovered along with interest from an ISD by the department.

Q 17. What are the consequences of credit distributed in contravention of the provisions of the Act?

Ans. The credit distributed in contravention of provisions of Act could be recovered from the unit to which it is distributed along with interest.

RETURNS PROCESS AND MATCHING OF INPUT TAX CREDIT

Q 1. What is the purpose of returns?

Ans.

- a) Mode for transfer of information to tax administration;
- b) Compliance verification program of tax administration;
- c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation; to declare tax liability for a given period;
- d) Providing necessary inputs for taking policy decision;
- e) Management of audit and anti-evasion programs of tax administration.

Q 2. Who needs to file Return in GST regime?

Ans. Every registered taxable person - who crosses the threshold limit for payment of taxes. A supplier needs to be registered when the aggregate turnover crosses Rs. nine lacs but he become taxable person ONLY when he crosses Rs. ten lacs. So he will be required to file returns when he crosses the threshold limit of Rs. ten lacs. There are some other class of persons who need to be registered and therefore will have to file returns like interstate suppliers, TDS deductors, e-commerce operators, suppliers supplying goods through e-commerce operators etc (reference Schedule-III and Question 6 of the Registration Chapter).

Q 3. What type of outward supply details are to be filed in the return?

Ans. A normal registered taxpayer has to file the outward supply details in GSTR-1 in relation to various types of supplies made in a month, namely outward supplies to registered persons, outward supplies to unregistered persons (consumers), details of Credit/Debit Notes, zero rated, exempted and non-GST supplies, exports, and advances received in relation to future supply.

Q 4. Is the scanned copy of invoices to be uploaded along with GSTR-1?

Ans. No, scanned copy of invoices is to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded.

Q 5. Whether all invoices will have to be uploaded?

Ans. No. It depends on whether B2B or B2C plus whether Intra-state or Inter-state supplies. For B2B supplies, all invoices, whether Intra-state or Interstate supplies, will have to be uploaded. Why So? Because ITC will be taken by the recipients, invoice matching is required to be done. In B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However still in order to implement the destination based principle, invoices of value more than Rs.2.5 lacs in inter-state B2B supplies will have to be uploaded. For intra-state invoices below Rs. 2.5 lacs and all intra-state invoices, state wise summary will be sufficient.

Q 6. Whether description of each item in the invoice will have to be uploaded?

Ans. No. In fact description will not have to be uploaded. Only HSN code in respect of supply of goods and Accounting code in respect of supply of services will have to be fed. The minimum number of digits that the filer will have to upload would depend on his turnover in the last year.

Q 7. Whether value for each transaction will have to be fed? What if no consideration?

Ans. Yes. Not only value but taxable value will also have to be fed. In some cases both may be different. In case there is no consideration, but it is supply by virtue of schedule 1, the taxable value will have to be uploaded.

Q 8. Can a recipient feed information in his GSTR-2 which has been missed by the supplier?

Ans. Yes, the recipient can himself feed the invoices not uploaded by his supplier. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. But if mismatch continues even after intimation, the credit provisionally allowed will be reversed.

Q 9. Do the taxable person have to feed anything in the GSTR-2 or everything is auto-populated from GSTR-1?

Ans. While a large part of GSTR-2 will be auto-populated, there are some details that only recipient can fill like details of imports, details of purchases from non-registered or composition suppliers and exempt/non-GST/nil GST supplies etc.

Q 10. What if the invoices do not match? Whether ITC given or denied? If denied, what action is taken against supplier?

Ans. If invoices in GSTR-2 do not match with invoices in counter-party GSTR-1, the ITC will be reversed if the mismatch continues even after it is made known to both and still it is not rectified. Mismatch can be because of two reasons. First, it could be due to mistake at the side of the recipient, and in such a case, no further action is required. Secondly, it could be possible that the said invoice was issued by supplier but he did not upload it and pay tax on it. In such a case, recovery action shall be taken against the supplier. In short, all mismatches will lead to proceedings if the supplier has made a supply but not paid tax on it.

Q 11. What will be the legal position in regard to the reversed input tax credit if the supplier later realises the mistake and feeds the information?

Ans. At any stage, but before September of the next financial year, supplier can upload the invoice and pay duty and interest on such missing invoices in his GSTR-3 of the month in which he uploaded the invoice. The recipient will then automatically get ITC on that invoice. The interest paid by the recipient at the time of reversal will also be returned to the recipient through an automated system on the GSTN.

Q 12. What is the special feature of GSTR-2?

Ans. The special feature of GSTR-2 is that the details of supplies received by a recipient can be auto populated on the basis of the details furnished by the counterparty supplier in his GSTR-1.

Q 13. Whether the ITC denied can be restored?

Ans. If the supplier uploads the invoice at any time after the reversal but by September of the next financial year, the credit reversed earlier gets restored along with refund of the interest paid during reversal.

Q 14. Do tax payers under the composition scheme also need to file GSTR-1 and GSTR-2?

Ans. No. Composition tax payers do not need to file any statement of outward or inward supplies. They have to file a quarterly return in Form GSTR-4 by the 1st of the month after the end of the quarter. Since they are not eligible for any input tax credit, there is no relevance of GSTR-2 for them and since they do not pass on any credit to their recipients, there is no relevance of GSTR-1 for them. In their return, they have to declare summary details of their outward supplies along with the details of tax payment. They also have to give details of their purchases in their quarterly return itself, most of which will be auto populated.

Q 15. Do Input Service Distributors (ISDs) need to file separate statement of outward and inward supplies with their return?

Ans. No, the ISDs need to file only a return in GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the subsidiaries. Since their return itself covers these aspects, there is no requirement to file separate statement of inward and outward supplies.

Q 16. How does a taxpayer get the credit of the tax deducted at source on his behalf? Does he need to produce TDS certificate from the deductee to get the credit?

Ans. Under GST, the deductor will be submitting the deductee wise details of all the deductions made by him in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions were made. The details of the deductions as uploaded by the deductor shall be auto populated in the GSTR-2 of the deductee. The taxpayer shall be required to confirm

these details in his GSTR-2 to avail the credit for deductions made on his behalf. To avail this credit he does not require to produce any certificate in physical or electronic form. The certificate will only be for record keeping of the tax payer and can be downloaded from the Common Portal.

Q 17. Who all need to file Annual Return?

Ans. All taxpayers filing return in GSTR-1 to 3 other than casual taxpayers and taxpayers under composition scheme are required to file an annual return. Casual taxpayers, non-resident taxpayers, ISDs and persons authorized to deduct tax at source are not required to file annual return.

Q 18. Is an Annual Return and a Final Return one and the same?

Ans. No. Annual Return has to be filed by every registered taxable person paying tax as a normal or a compounding taxpayer. Final Return has to be filed only by those registered taxable persons who have applied for cancellation of registration. This has to be filed within three months of the date of cancellation or the date of cancellation order.

Q 19. If a return has been filed, how can it be revised if some changes are required to be made?

Ans. In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system will allow changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR1/2 in the tables specifically provided for the purposes of amending previously declared details.

Q 20. How can taxpayers file their returns?

Ans. Taxpayers will have various modes to file the statements and returns. Firstly, they can file their statement and returns directly on the Common Portal online. However, this may be tedious and time taking for taxpayers with large number of invoices. For such taxpayers, an offline utility will be provided that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the Common Portal. GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the Common Portal.

Q 21. What all should a diligent taxpayer ensure for a hassle free compliance under GST?

Ans. One of the most important things under GST will be timely uploading of the details of outward supplies in Form GSTR-1 by 10th of next month. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues. If the number is small, the taxpayer can upload all the information in one go. However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis. GSTN will allow regular uploading of invoices even on a real time basis. Till the statement is actually submitted, the system will also allow the taxpayer to modify the uploaded invoices. Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush will make uploading difficult and will come with higher risk of possible failure and default. The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that the input tax credit is available without any hassle and delay. Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them. The GSTN system will also provide the track record about the compliance level of a tax payer, especially about his track record in respect of timely uploading of his supply invoices giving details about the auto reversals that have happened for invoices issued by a supplier. The Common Portal of GST would have pan India data at one place which will enable valuable services to the taxpayers. Efforts are being made to make regular uploading of invoices as easy as possible and it is expected that an enabling ecosystem will develop towards this objective. Taxpayers should make efficient use of this ecosystem for easy and hassle free compliance under GST.

Q 22. Is it compulsory for taxpayer to file return by himself?

Ans. No. A registered taxpayer person can also get his return filed through a Tax Return Preparer, duly approved by the Central or the State tax administration.

Q 23. What is the consequence of not filing the return within the prescribed date?

Ans. A registered taxable person who files return beyond the prescribed date will have to pay late fees of rupees one hundred for every day of delay subject to a maximum of rupees five thousand.

Nationwide Campaign to open bank accounts of all workers in both organized and unorganized sectors

The Ministry of Labour and Employment in collaboration with Department of Financial services, the Ministry of Finance is launching a nationwide campaign to open bank accounts in respect of those workers in both organized and unorganized sectors who do not have one even today . Starting form 26th November 2016, special camps will be organized in every district at specific locations to facilitate the workers to open their bank accounts. Government has decided to pursue this path of digital transactions more vigorously than ever before. “We have already sent communications to all the state governments in this respect requesting their active cooperation.” this was stated by Shri Bandaru Dattatraya, the Minister of State (IC) for Labour and Employment here today. The Minister said that the team comprising of District Magistrates, Lead District Manager of the Bank and the Labour Officers of both Centre as well as State governments would decide the modalities of the camps including the locations within their districts and coordination with the banking channels.

Shri Dattatraya has called upon all the establishments, employers and the employees associations and everyone associated and seek their active involvement and cooperation to ensure that the needy workers are facilitated to access these camps and avail the services therein. The campaign will continue in the coming days through the concerned banks, their business correspondents and camps as required.

In order to facilitate financial inclusion and to ensure transparency in all financial transactions, the government launched its flagship scheme of Jan Dhan Yojna in September, 2014. More than 25 crore bank accounts have been created since then across the country thereby linking the working class to the mainstream of financial /banking activities. The DBT through this banking network has benefitted crores of poor citizens of the country.

SMT SMRITI ZUBIN IRANI TO INAUGURATE APPAREL & GARMENT MAKING CENTRE AT IMPHAL, MANIPUR

Union Minister for Texiles Smriti Jubjin Irani will be inaugurating Apparel & Garment Making Centre at Imphal, Manipur on the coming Sunday i.e. 27th November, 2016 in the presence of Shri Okram Ibobi Singh, Chief Minister, Manipur.

The Apparel & Garment Making Centre at Imphal, Manipur has been constructed under the North-East Region Textile Promotion Scheme (NERTPS) launched by the Union Textile Ministry following the announcement of the Prime Minister Shri Narendra Modi. The project has been completed by the Manipur Handlooms and Handicrafts Development Corporation (MHHDC).

Under this intervention, each state now has one centre with three units having approximately 100 machines each.

The project is fully funded by the Ministry with an estimated cost of Rs. 18.18 crores for one Apparel Center in each state. The central assistance is towards construction of physical infrastructure, machinery for the units and towards capacity building of workers for a period of 3 years. NBCC, which has been appointed for the construction of the infrastructure and installation of machinery at the centres has completed its task and the machinery has also been installed successfully at all three units.

The capacity building through this centre will include:

Skill development (3 month training for 600 trainees per Centre @ Rs. 10,000 month i.e. 3x600x10,000), Market linkages (3 domestic exhibitions and 1 international exhibition), EDP programme (1 month training programme per unit), EDP programme (1 month training programme per unit), and Management Support including Design Services (Four persons for three years).

The Manipur State Government has allocated land admeasuring approximately 1.5 acres at Lamboikongnangkhang, Imphal, Manipur for this centre..

Three operating Agencies have been selected for this Centre. They are:

Unit 1 – M/s Women's Worth Organization, Imphal

Unit 2 – Technopak Advisors Pvt. Ltd, Gurgaon

Unit 3 – M/s V.V Enterprises.

Each centre is estimated to generate direct employment for approximately 1200 persons.

The salient objectives of the project are:

- Promotion of entrepreneurship in apparel manufacturing
- Provision of state of the art infrastructure
- Provision of skill development, market linkage and other services
- Creation of additional employment.

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