



July 2011

Editorial

As India is on the threshold of a major indirect tax reform; we are starting a special column on indirect taxes which we expect would be a pertinent source of information for the business community, SMEs and every individual who is exposed to these taxes. Indirect taxes are the charges that are levied on the goods and services. For direct taxes, taxpayers will definitely realize that they are facing the tax burden since taxpayers are required to declare their income and to pay tax accordingly to the government. However, for the indirect taxes, taxpayers usually don't realize that they are being taxed as the amount of tax is already inclusive in the selling price. As the government has proposed to introduce Goods and Services Tax anytime in 2012 since it is a transaction based tax; we have tried to provide you a brief introductory note on GST as well as the recent development in the field of indirect tax.

Knowledge Provision

This newsletter has been compiled and prepared by Indirect Tax Practice team of India Juris. In case the readers are interested to know more about Indirect Tax system and business in India, please contact India Juris.

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GOODS AND SERVICES TAX – AN INTRODUCTION

India is on the verge of the single most significant indirect tax reform since independence namely Goods and Services Tax. It is expected to provide an impetus to the investment and growth of the economy. GST will have an impact on different



aspects of economy including manufacturing sector, services, logistics, distributor, retailers, consumers, IT systems and transactions management etc. For smooth transition to GST, companies as well as every individual who is going to be affected by this forthcoming tax regime should understand its full implications.

Goods and Services tax is proposed to be introduced in India from April 2012. It is just a comprehensive value added tax levied on goods and services with a set-off credit mechanism. GST is levied at every stage of the production-distribution chain with applicable set-offs in respect of the tax remitted at previous stages. In a GST regime, goods and services are not differentiated as they move through the supply chain.

The model of GST will be dual in nature i.e. it will have two components namely CGST and SGST. CGST will consist of certain central taxes like Excise duties (including additional excise duty), Service tax, Additional Custom duty (commonly known as CVD), Surcharges, cesses etc., while SGST would subsume taxes like VAT/ Sales Tax (including CST),



INDIRECT TAXES UPDATE

Entertainment tax (other than levied by local bodies), Entry tax not in lieu of Octroi, Other Taxes and Duties (including Luxury tax, Taxes on lottery, betting and gambling, all cesses and surcharges by states). The CGST and SGST would be imposed concurrently by the centre and the states. It will promote co-operative federalism in India.

RECENT DEVELOPMENT ON INDIRECT TAXES



Indirect tax receipts registered a sharp rise in the first two months of the current fiscal (April-May). The more-than-expected rise in revenue could also make it easier for the government to meet its fiscal deficit target of 4.6% of the GDP.

The Ministry of Finance revealed that the draft paper (on negative list of services) is nearly ready and government will come out with such a 'negative list' for service tax within few days. It means that the services which are not mentioned in this list would be taxed under the proposed GST regime. At present, only limited numbers of services come under the tax net. The government proposes to tax most of the services under Goods and Service Tax (GST) regime.

The much awaited new indirect tax regime Goods and Services Tax (GST) is unlikely to be implemented from the scheduled date of April 1, 2012 and it may be introduced anytime after that as it is a transaction based tax.



The central government has rescinded the notification no. 54/2008 – customs dated 28th April, 2008 by the Customs notification no. 57/2011, dated 7th July, 2011 and recommended for the withdrawal of anti-dumping duties against 'Hydrofluoric Acid' which is originating or exported from China as it is not likely to recur any injury to the domestic industry.

INDIRECT TAX CASE LAWS

Revenue Bar Association vs. UOI (Madras High Court)

Brief fact of the case

The Legal Consultancy service was brought under service tax net from 01.09.2009. This taxable service is defined under sub-clause (zzzzm) of clause (105) of section 65 of the Finance Act, 1994. The legal services provided to a business entity by any other business entity in relation to advice, consultancy or assistance in any branch of law were covered.



The scope of legal consultancy services has been expanded by the Finance bill, 2011. Under the Taxable Consultancy services, the services provided by Business entity to another Business entity, Business entity to Individual and Individual to Business Entity are covered. The overall outcome of this levy is that the individual lawyer will be covered under service tax net. They have to pay the service tax on services provided to the business entities but the



INDIRECT TAXES UPDATE

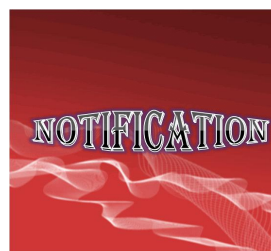
services provided to individuals will be exempt. The legal community objected this amendment and approached to the court through writ petitions.

Held

After Delhi, Guwahati and Andhra Pradesh, Madras High court has also stayed the operation of a central government's notification to levy service tax on practicing advocates.

The Madras High Court has passed an order of interim injunction dated 24.06.2011. According to this stay order, it is not required for the practicing advocate to register themselves with the service tax authorities or to collect and pay any tax on the basis of section 65(105) (zzzzm) read with section 56 of the finance Act, 1994. This stay order will continue until any further order does not come into effect in response to writ petition filed by the Revenue Bar Association, Madras.

LATEST NOTIFICATIONS



Excise:

Tariff:

[33/2011 - CE](#), dated 25-06-2011, Notification related to Diesel and cinematographic film.

[32/2011 - CE](#), dated 20-04-2011, Amends Notification No. 62/1995- Central excise dated 16th March, 1995

[31/2011 - CE](#), dated 24-03-2011, Exemption to garments returned for repair, reconditioning etc

Non Tariff:

[15/2011 - C.E \(N.T.\)](#), dated 30-06-2011, Prescribes simplified form for quarterly return of excisable goods cleared @ 1% duty



INDIRECT TAXES UPDATE

[14/2011 - C.E \(N.T.\)](#), dated 03-06-2011, Regarding centralized registration facility for recorded smart card manufacturers.

Service Tax:

[41/2011 - Service Tax](#), dated 27-06-2011, Amends the Point of Taxation Rules, 2011

[40/2011 - Service Tax](#), dated 14-06-2011, Amends Notification No. 09/2010-Service Tax, dated the 27th February, 2010

[39/2011 - Service Tax](#), dated 14-06-2011, Amends Notification No. 08/2010-Service Tax, dated the 27th February, 2010

[38/2011 - Service Tax](#), dated 14-06-2011, Amends Notification No. 07/2010-Service Tax, dated the 27th February, 2010

[37/2011 - Service Tax](#), dated 25-04-2011, Amends Taxation of Services Rules 2006

[36/2011 - Service Tax](#), dated 25-04-2011, Amends Export of Services Rules, 2005

[35/2011 - Service Tax](#), dated 25-04-2011, Amends Service Tax Rules, 1994

[Corrigendum](#), dated 26-04-2011

[34/2011 - Service Tax](#), dated 25-04-2011, Further amendments in Notification No. 1/2006-Service Tax, dated the 1st March, 2006

[33/2011 - Service Tax](#), dated 25-04-2011, Regarding exemption to preschool coaching and training

[32/2011 - Service Tax](#), dated 25-04-2011, Rescinds Notification No.25/2006-Service Tax, dated the 13th July, 2006

[31/2011 - Service Tax](#), dated 25-04-2011, Exempts certain taxable service

[30/2011 - Service Tax](#), dated 25-04-2011, Exempts certain taxable service

[29/2011 - Service Tax](#), dated 25-04-2011, Appoints the 1st day of May 2011 as the day for Finance Act, 2011 (8 of 2011) to come into force

[Corrigendum](#), dated 26-04-2011

[28/2011 - Service Tax](#), dated 01-04-2011, Regarding Point of Taxation Rules, 2011

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