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## NEWSLETTER FOR THE MONTH OF MARCH 2014 (RELEASE DATE: APRIL 15, 2014)

### Important updates in MVAT and CST

1. Cir 1T and 2T of 2014: VAT audit report of FY 2012-13 for developers other than those opting for composition may be filed upto Feb 15, 2014.
2. Cir 3T of 2014: Special Amnesty Scheme for specified industries. Waiver of interest and penalty if principal paid in full. Scheme upto Mar 31, 2014.
3. Cir 4T of 2014: Electronic application and delivery of statutory forms introduced wef Feb 1, 2014. Salient features are:
  - i. Mandatory to state e-mail and mobile no of applicant.
  - ii. SORs (ie statement of requirement) filed upto 6 pm shall be processed overnight and it will be reprocessed by Central Repository Officer the next working day.
  - iii. Application may be withdrawn only upto 6 pm of the day of application.
  - iv. Quarterly applications to be made for all types of forms.
  - v. Dealers whose registration is cancelled can obtain forms for the period of their validity.
  - vi. **Only two SOR shall be allowed for a quarter. Third SOR shall be allowed only with the permission of Additional CST of concerned location.**
  - vii. **The system shall verify whether all returns till date are filed, turnover as per returns, any outstanding dues and whether audit reports where applicable (from 1-4-2008) have been filed.**
  - viii. **For F forms, the branch outside Maharashtra should be incorporated in the registration record.**
  - ix. **The applicant should fulfill all conditions/ restrictions in respect of the commodity stated in SOR and commodity details available in MAHAVIKAS (refer Cir 22T of 2012).**
  - x. **Defect notice, if any, shall be communicated by e-mail and should be replied within 15 days. Otherwise, it will be automatically rejected.**
  - xi. Procedure for online issuance of forms is applicable for periods from Apr 1, 2008 onwards only.
  - xii. **Procedure for cancellation of declarations, in case of lost declarations, pending applications as on Jan 31, 2014 etc are also detailed in the circular.**
4. Cir 5T of 2014: Sales tax department has asked for suggestions for modification/ changes/ amendments in the procedures, rules and the acts governed by sales tax department in view of revamping of automation system of the sales tax department. Suggestions are required to be sent at [suggestions2014@mahavat.gov.in](mailto:suggestions2014@mahavat.gov.in) latest by Feb 20, 2014.
5. Cir 6T and 7T of 2014 are regarding audit report and revised returns to be filed by developers.
6. **Cir 8T of 2014: Very important circular. It provides for relief and gives details of situations in which late fees u/s 20(6) is waived.**
7. **Cir 9T of 2014: Filing of annexures J1 and J2 along with respective returns is made compulsory for the return periods starting on or after April 1, 2014. Also, annual filing of annexures C, D, G, H, I, J1 and J2 (as may be applicable) for non audit dealers. Dealers subject to audit shall continue to give annual annexures in their audit reports in Form 704.**



8. Cir 10T of 2014: Audit report for FY 12-13 in case of developers may be filed upto May 10, 2014.
9. **Cir 11T of 2014: Effect of SC judgement in case Bansal Wire Industries – Stainless Steel wire (SS wire) cannot be covered in Sch entry no C-55 of MVAT Act and therefore tax rate on SS wire wef Apr 26, 2011 can be 12.5% retrospectively. The matter is referred to Government for taxation of earlier periods also.**
10. **Noti 1513/Cr 130/ Taxation 1 dated Dec 27, 2013: New schedule entry no A-63 added. There will be Nil tax rate on motor vehicles upto 200cc, adapted or modified for use by handicapped persons. It is subject to certain administrative conditions.**
11. Noti VAT 1513/ CR 150/ Taxation 1 dated Dec 24, 2013: As single point taxation system introduced for wine also, consequential rate amendments in schedule entry D-3 is done to increase the tax rate on wine to 40% (where MRP not applicable).
12. Noti VAT 1513/ CR 151/ Taxation 1 dated Dec 24, 2013: Consequential amendment in Rule 54(i) to cover wine for non admissibility of set off.
13. Noti VAT 1513/ CR 152/ Taxation 1 dated Dec 24, 2013: Sale of wine covered by entry D-3A by Indian Naval canteen etc shall be exempt wef Jan 1, 2014 subject to conditions specified.
14. **Noti VAT 1513/ CR 147/ Taxation 1 dated Jan 29, 2014: Retrospective amendment in Rule 58 wef June 20, 2006. In case of builders, value of goods transferred would be determined on the basis of stage of construction at the time of execution of agreement with buyer. Stages and respective percentages are specified. Certificate from Local or Planning Authority for stage of completion is required. If there is no procedure of issuance of such certificate, then certificate from registered RCC consultant would be required. In the stage of construction cannot be established then the entire value after allowable deductions would be taxable.**
15. Noti VAT 1513/ CR 109/ Taxation 1 dated Jan 13, 2014: Aviation Turbine Fuel (duty paid) will not attract concessional rate of 5% if sold within geographical limits of Brihan Mumbai Corporation and Pune Municipal Corporation and Raigad District.
16. **Noti 1514/Cr 8/ Taxation 1 dated Feb 20, 2014: Tax rate on certain goods covered by schedule entries A-9A- paddy, rice, wheat pulses etc; A-51 – papad, gur, chillies towels, etc; A-59 – raisins and currants shall continue to be Nil upto March 31, 2015. Also, tax rate on tea in leaf or powder form covered by schedule entry no C-108 shall continue to be 5% upto March 31, 2015.**
17. **Noti 1514/Cr 10/ Taxation 1 dated Feb 20, 2014: Tax rate on Gold, Silver, Diamond etc covered by Sch entry B-1 and B-2 reduced from 1.10% to 1% wef Apr 1, 2014.**
18. **Ordinance No VII of 2014 dated Mar 3, 2014: Sec 23(13) added to extend the last date of making an assessment order in case of builders to Sept 30, 2015.**
19. General information:

Last date of application in Form 501 for VAT refund is within 18 months from end of year [Sec 51(7)]. Prior to May 1, 2011, it was three years from end of year. Bombay HC in the case of Vaibhav Steel Corp v Additional CST (on Nov 26, 2013) decided that reduction in time limit cannot have retrospective effect.



### Income tax:

1. Process of PAN issuance changed wef Feb 3, 2014. Self attested documents required along with original verification by TIN FC. However, it is again put on hold by CBDT. So, the same system as earlier continues.
2. As directed by Income Tax Department (ITD), with effect from February 12, 2014, functionality of furnishing the foreign remittance details in Form 15CA will be available on the e-filing portal of ITD.
3. The functionality of furnishing the foreign remittance details in Form 15CA on website of TIN-NSDL has been discontinued with effect from February 12, 2014. For uploading form no 15CA you will have to visit e-filing portal of Income Tax Department (ITD) [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in).
4. **Cir No 1/2014 dt Jan 13, 2014: TDS not to be deducted on service tax amount if it is charged separately in the bill.**
5. Deadline for submission of ITR-V to CPC for AY 09-10, 10-11 and 11-12 extended till Mar 31, 2014.
6. **Cir No 7/2014 dated March 4, 2014: Due date for filing TDS/ TCS statements in case of Government Deductors for FY 12-13 (second to fourth quarter) and FY 13-14 (first to third quarter) is extended upto March 31, 2014. Thus, if returns for above periods are filed within Mar 31, 2014, late fee u/s 234E would not be applicable.**
7. Due date of March 15, 2014 for payment of advance tax extended to March 18, 2014.

### Companies Act:

1. Section 12(3)(c) of the Companies Act, 2013 which comes into effect from 1st April, 2014: The Corporate Identity Number which is a 21 digit number allotted by the Ministry of Corporate Affairs – this needs to be now printed in the company letter heads/ invoices and any other official documents of the company.

### Service tax - Budget 2014 (February) highlights:

Interim Budget 2014 has proposed few changes with respect to Service Tax. These changes are discussed in the following paragraphs.

#### A. The curious case of 'rice' and service tax

The Finance Act 1994 exempts storage or warehousing of 'agricultural produce'. In this context, question had arisen as to whether 'rice' is an 'agricultural produce' or not?

In this regard, the Hon'ble Finance Minister had vide letter dated November 9, 2013 [See [DDT 2275](#)] clarified that 'paddy' is an 'agricultural produce' but 'rice' is not since it is subject to processing (de-husking etc.) and it will not qualify as 'agricultural produce' and thus its storage, warehousing etc. will be liable to service tax.

Now, as a relief, vide Notification No. [4/2014-ST](#) dated 17 February 2014, the Finance Ministry has exempted storage or warehousing, loading, unloading, packing of 'rice' from service tax.

However, this Notification is half-hearted as the exemption provided will be applicable for period from February 17, 2014 onwards (i.e. prospective), thus implying that the Government considers this service was taxable prior to February 17, 2014.



This leads to a paradox as the Government thinks the storage, warehousing etc. of 'rice' as exempt with effect from February 17, 2014 onwards but taxable prior to February 17, 2014.

Though the interpretation of the Finance Ministry that 'rice' is not an 'agricultural produce' is itself doubtful still the warehousing industry may face notices asking them to pay service tax for the period prior to February 17, 2014.

Therefore, it is of utmost importance that the aforesaid services are exempted retrospectively by a section 11C notification.

### **B. Rice is 'foodstuff'**

The TRU vide Circular [177/3/2014](#) dated February 17, 2014 has clarified that transportation of rice by rail, vessel or Goods Transport Agency will be exempted as 'rice' qualifies as a 'foodstuff'.

It is also clarified by TRU that 'milling of paddy into rice' is already exempt as it is covered as sr. no. 30 (a) of Notification No. 25/2012-ST.

This being a clarificatory circular should have **retrospective** effect.

### **C. Exemption from service tax to Cord blood banks**

Umbilical cord blood banking is practice of preserving for future use the blood that remains in the umbilical cord at the time of birth. Herein, the cord blood is collected, preserved and used (by child or his relative). Accordingly the patient is charged for collection, preservation, processing etc. of the cord blood.

In this context, there was ambiguity regarding applicability of service tax on the charges collected by such cord blood banks i.e. whether these services should be treated as 'healthcare services' (and thus exempt from service tax) or storage services (and thus liable to service tax)

The Ministry of Health and Family Welfare also had requested the Finance Ministry that services provided by cord blood banks are also 'healthcare services' and should be thus exempt from service tax.

Now, as a relief, vide Notification No. [4/2014-ST](#) dated February 17, 2014, the Finance Ministry has proposed to exempted services provided by cord blood banks pertaining to of collection, preservation, processing, testing etc. from service tax. However, this notification is also prospective i.e. applicable for period from February 17, 2014 onwards.

Thus, the ambiguity/litigation regarding period prior to February 17, 2014 will continue to be pain for the Cord Blood Bank industry unless the benevolent government extends retrospective benefits.

#### *Disclaimer:*

*All efforts have been made to ensure completeness of data. However, readers are advised to confirm from their own sources also. Further, interpretations given above are our personal opinions at M/s Umesh Agrawal and Associates. We are not responsible for any loss arising due to the above information.*

