

NEWSLETTER - SEPTEMBER 2015

IMPORTANT UPDATES IN MVAT AND CST

1. Noti No VAT 1515/CR 128B/Taxation 1, Dated 30-9-2015: Taxation of liquor-Amendment to notification u/s 41(5) of MVAT Act

Tax on liquor (country and foreign) sold by manufacturer, wholesaler, restaurant etc increased from 25% of MRP (MRP * 25/125) to 30% of MRP (MRP * 30/130) wef Oct 1, 2015.

2. VAT 1515/CR 128A/Taxation 1, Dated 30-9-2015 (Cir 16T of 2015 dt Nov 4, 2015)
 - **Tax rate on Gold, Silver, Diamond, precious metals, articles thereof etc covered by Sch entry B-1, B-2 and B-3 increased from 1% to 1.20% wef Oct 1, 2015.**
 - **Tax rate on Liquor (foreign, country, imported etc but excluding wine) covered by Sch entry D-1, D-2 and D-3 increased from 50% to 60% wef Oct 1, 2015.**
 - Tax rate on High Speed Diesel Oil covered by Sch entry D-5(a) increased from 24% to 24% plus Two rupees per litre wef Oct 1, 2015.
 - Tax rate on High Speed Diesel Oil covered by Sch entry D-5(b) increased from 21% to 21% plus Two rupees per litre wef Oct 1, 2015.
 - Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(a) increased from 26% plus One rupee per litre to 26% plus Three rupees per litre wef Oct 1, 2015.
 - Tax rate on Any Other Kind of Motor Spirits covered by Sch entry D-10(b) increased from 25% plus One rupee per litre to 25% plus Three rupees per litre wef Oct 1, 2015.
 - **Tax rate on Aerated and Carbonated non-alcoholic beverages covered by Sch entry D-13 increased from 20% to 25% wef Oct 1, 2015.**
 - **Tax rate on Cigars and Cigarettes covered by Sch entry D-14 increased from 25% to 35% wef Oct 1, 2015.**

3. VAT rate is changed on following goods:

Name of item	Sch entry	Old rate	New rate	WEF
High Speed Diesel Oil – Municipal Corporation of Nagpur added to existing list of Mumbai, Thane and Navi Mumbai (Noti No VAT 1515/ CR 3(A)/ Taxation 1 dt Feb 23, 2015)	D-5	21%	24%	Mar 1, 2015 to Feb 29, 2016
High Speed Diesel Oil (Motor Spirits) – Municipal Corporation of Nagpur added to existing list of Mumbai, Thane and Navi Mumbai (Noti No VAT 1515/ CR 3(B)/ Taxation 1 dt Feb 23, 2015)	D-10	25% plus Re 1 per litre	26% plus Re 1 per litre	Mar 1, 2015 to Feb 29, 2016

4. Cir No 14T of 2015 dt Sep 30, 2015: Refund through NEFT.
 - Payment of refund through NEFT has been mandatory wef Oct 1, 2015.



- Bank details of dealer having NEFT facility, viz, Bank, A/c number, Branch, IFSC must be included in registration details.
 - If these details are not already included in registration details, then dealer shall have to file amendment application along with Annexure A attested by branch manager of bank and a cancelled cheque. Annexure A is attached to this circular.
 - Cancelled and non-TIN holder dealers shall continue to get refunds manually.
5. Cir No 13T of 2015 dt August 14, 2015: Further to Cir 7T of 2015 dt May 19, 2015, this circular provides for certain procedural guidelines, which mainly include the following:
- Mandatory verification of PAN by officer.
 - Mandatory visit to place of business if the PAN relates to suspicious dealer or dealer deals in risky commodities.
 - Non acceptance of application if documents not legible.
 - Relaxation related to some documents, viz, registered agreement as proof of business and residence, copy of challans of fees and deposit.
 - Allotment of new application on the PAN rejected earlier for grant of TIN.
 - Replacing the default TIN used for payment of fees/ deposit.
 - Sending new registration files to new registration follow up branch.
 - Events of cancellation of registration.
6. Cir No 12T of 2015 dt August 14, 2015: The department has generated computerized desk audit (CDA) for FY 2012-13. Details of the same are given in this circular.
7. Cir No 11T of 2015 dt July 13, 2015: Bombay HC judgment in Tata Sons Ltd. After this judgement, it is now settled that VAT can be levied on transfer of right to use goods of intangible nature, ie, trade mark, technical knowhow, copy right and other intangibles etc even if it is transferred to multiple users.
8. Cir No 10T of 2015 dt July 7, 2015: Corrigendum to Cir No 7T of 2015. This circular states that if online application is otherwise correct in all respects, then registration shall be granted within one day of allocation of application to the concerned officer.
9. Cir No 9T of 2015 dt July 1, 2015: Providing e payment facility Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 ('entry tax'). However, it is not yet mandatory to make e-payment.
10. Cir No 8T of 2015 dt June 16, 2015: Non acceptance of letters and correspondence. Ironically, a circular had to be issued to instruct the officers of the department to accept letters and correspondence. The concerned officer would have to accept the correspondence and he may decide on that whatever he feels correct. But non acceptance as such would be taken very seriously by the department.
11. Cir No 7T of 2015 dt May 19, 2015: Modification in Cir 5T of 2015 dt May 6, 2015. It provides details of procedure and documentation in case of online registration under VAT and CST, number of documents required and its respective size that can be uploaded.



Facility of e-payment of fees and security deposit for registration included. The most important point to be kept in mind is that in case there is any error in application, whatsoever small, there is no scope for correction. Application would be rejected and a fresh application would need to be done. Date of effect of registration in such case would be from date of latest application. This may lead to URD period also.

12. Cir No 6T of 2015 dt May 14, 2015: Budget 2015 amendments highlights:

- i. Limit for deduction of profession tax in case of salaried woman employee raised from Rs 7500 to Rs 10000. This shall effective for the salary paid for the month of April 2015 onwards irrespective of actual date of payment. So, there is only one slab for woman employee.
- ii. Goods covered by clauses (iv) and (v) of entry C-55 are levied entry tax @ 5% wef Apr 1, 2015. These goods are steel bars (rounds, rods, square flats, octagons and hexagons, plain and ribbed or twisted in coil form as well as straight lengths); steel structurals (angles, joints, channels, tees, sheet piling sections, Z sections or any other rolled sections). Other relevant details are also included in the circular.
- iii. Amdmt in Sec 2 of MVAT Act: Service tax not part of sale price or purchase price if levied or leviable and collected separately. This is wef Apr 1, 2015. In view of decision of Tribunal in case of Sujata Printers, it will be applicable for prior periods also where sale price determined under Rule 58 of MVAT Rules.
However, this deduction of service tax is not applicable for works contracts for which composition is opted u/s 42(3) or 42(3A).
- iv. Amdmt in Sec 20(4): Multiple revised returns possible u/s 20(4)(c). Please note that that it is not possible under clauses (a) or (b) of Sec 20(4), ie, suo motu by dealer or as per instructions in audit report.
- v. Amdmt in Sec 20(6): Late fee was earlier reduced to Rs 2000 wef July 1, 2014 for delay upto 30 days. Now wef May 1, 2015 (return period for the period ending March 31, 2015 included), this late fee is reduced to Rs 1000. Benefit of grace period of 10 days would NOT be applicable. Also, on the safer side, 30 days should not be construed as one month.
- vi. Amdmt in Sec 23(5)(a): Transaction wise assessment may be initiated where AO has reason to believe that any dealer has evaded or has attempted to evade the tax etc. he can issue Form 302 (no need to issue Form 603 first). This is wef Apr 1, 2015.
- vii. Addition of Proviso in Sec 20(5)(d): For notices issued in Form 302 (ie transaction wise assessment) on or after Apr 1, 2015, limitation period of six years would be applicable. Earlier there was no limitation period applicable. Period of six years would start from end of the year to which the transaction pertains. It means, fresh Form 302 notices cannot be issued after Mar 31, 2015 for financial years upto 2008-09. However, if notice already issued before Apr 1, 2015, then assessment procedure would continue.
- viii. **Sec 23(11) amended to provide for cancellation of assessment order (by filing Form 316 within 30 days) passed under Sec 23(5) also. Earlier, it was not allowed. This amendment is effective April 1, 2015.**
- ix. Scope of Sec 28 related to modification of tax liability has been expanded to cover more contingencies. It is wef April 1, 2015.
- x. Difficulties were faced for calculation of interest liability u/s 30(2) in case of annual returns. Detailed mechanism for the same is provided which is applicable to all revised returns [u/s 20(4)(b) or (c)] filed from April 1, 2015.
- xi. New sub sec (4A) added to Sec 44 wef Apr 1, 2015 to provide for option to choose date of transfer in case of amalgamation and demerger of companies. It can be either date of court order or date notified by ROC. Consequential amendments made in Sec 47.



- xii. Wef Apr 1, 2015, graph books, laboratory note books, drawing books and work books are tax free vide Sch entry A-6. Earlier, those were taxable at 5% under Sch entry C-32.
- xiii. Exemption of commodities covered by Sch entries A-9A, 51 and 59 which was available upto Mar 31, 2015 extended to Mar 31, 2016.
- xiv. Wef Apr 1, 2015, new entry A-12A inserted to exempt notified drugs for cancer.
- xv. Explanation with retrospective effect from Apr 1, 2005 added to Sch entry C-4 to clarify that sewing thread to include embroidery thread.
- xvi. Tax on cashew shell reduced from 12.5% to 5% vide Sch entry C-17A wef Apr 1, 2015.
- xvii. Wef Apr 1, 2015, tax on guide wire used for medical purposes reduced from 12.5% to 5% by including it in entry C-29A.
- xviii. Entry C-70 covered 'paper, news print, paper board, waste paper, all types of paper stationary for computer, carbon paper and ammonia paper'. Its scope was reduced vide Cir 7T of 2010. Wef Apr 1, 2015, various types of papers have been notified to be covered under this entry.
- xix. Explanation with retrospective effect from Apr 1, 2005 added to Sch entry C-91 to clarify that spices to include spices in all forms, varieties and mixtures of any of the spices.
- xx. Tax on ladies handbags and ladies purses reduced from 12.5% to 5% wef Apr 1, 2015 vide new sub entry C-107(7A).
- xxi. Concessional rate of 5% on 'tea in leaf or powder form including instant tea' extended to Mar 31, 2016. Sch entry C-108.
- xxii. Sub entry C-108(3) deleted wef Apr 1, 2015. Specified particle boards would now be taxable at 12.5% instead of 5%. Tax rate to be same as any other boards, plywoods.
- xxiii. LED bulbs would be taxable at 5% instead of 12.5% wef Apr 1, 2015. It is included in Sch entry C-111 along with CFL bulbs.
- xxiv. White butter included retrospectively from Sept 1, 2005 in sch entry C-54. So it would be taxable at 5% (and not at 12.5%).

13. Cir No 5T of 2015 dt May 6, 2015:

- i. Online grant of registration under MVAT and CST
- ii. New procedure to be effective from May 7, 2015 (ie within one day from date of release of circular).
- iii. This circular is immediately revised by issuance of Cir No 7T of 2015 dt May 19, 2015.

14. Cir No 4T of 2015 dt Mar 9, 2015:

- i. Combined application for new registration under MVAT, CST and Profession tax introduced.
- ii. Among others, following important changes made in the application form:
 - Place for selecting Entrepreneurs Memorandum (EM) issued by DIC and/ or Industrial Entrepreneurs Memorandum (IEM) issued by Govt of India.
 - Field for entering UID (Adhaar Card No) provided.
 - Mobile no and e-mail address is made compulsory.
 - In case of PTEC application, place for entering certificate/ sanad number granted by concerned certifying authority related to profession and its date of issue added.



- iii. Personal attendance is not required if registration is only under PT Act. However, it is required if registration under VAT/ CST is involved.

15. Cir No 3T of 2015 dt Feb 20, 2015:

Further to Cir 16T of 2014 dt Sep 16, 2014, procedure of submission of returns under Profession tax, Luxury tax and Sugarcane purchase tax Act after making payment through GRAS has been explained.

16. Cir No 2T of 2015 dt Jan 14, 2015:

Due date of filing audit report for FY 2013-14 extended to Jan 31, 2015 and due date for submitting acknowledgement and statement of submission extended to Feb 10, 2015.

17. Cir No 1T of 2015 dt Jan 7, 2015:

As per Cir 15T of 2014 dt Aug 6, 2014, where in assessment, demand is on account of non-production of statutory forms and where appeal is filed after 2 years from end of relevant year, then stay shall not be granted unless the appellant makes 100% payment of tax as part payment. Where such appeal is filed before expiry of 2 years, the stay shall stand vacated if appellant fails to produce declarations before expiry of 2 years.

Vide this Cir 1T of 2015, only declarations received upto date of filing of appeal shall be considered for fixing part payment.

18. Cir No 21T of 2014 dt Dec 20, 2014:

After uploading audit report for FY 2013-14, dealer shall submit Statement of submission duly signed, certified with stamp of the dealer and copy of acknowledgement duly signed, certified with stamp of the dealer and auditor. It is to be submitted on or before Jan 27, 2015.

19. Cir No 20T of 2014 dt Nov 25, 2014:

Cir 52T of 2007 dt Jul 31, 2007 provided that where there are no intersales sales, CST returns need not be filed. However, guidelines revised and as per revised guidelines, dealers claiming deduction u/s 8(1) of MVAT Act or deduction u/s 6A (branch transfer) of CST Act shall be required to file CST return. In other words, dealers effecting following types of sales shall be required to file CST returns:

- i. Inter state sales u/s 3 of CST Act,
- ii. Goods transferred u/s 6A(1) of CST Act,
- iii. Sales outside the state u/s 4 of CST Act,
- iv. Export sales u/s 5(1) and 5(3) of CST Act, and
- v. Sales in the course of import u/s 5(2) of CST Act.

The above amendment would be applicable for return periods starting on or after Oct 1, 2014.

20. Cir No 19T of 2014 dt Nov 11, 2014:



Amnesty scheme for the units which are closed and which cannot be rehabilitated was introduced vide Cir 3T of 2014 dt Jan 24, 2014. It was applicable upto Mar 31, 2014. It is extended up to Mar 31, 2015.

21. Cir No 18T of 2014 dt Sep 26, 2014:

- i. Amdmt in Rule 17(4): Composition and deemed dealers to file Annexures J1 and J2 along with six monthly returns. Other details for entire year in Annexure C and D to be filed along with last six monthly return of the year on or before June 30.
- ii. Filing of annexures: Proviso to clause (d) of Rule 17(4) is substituted:

For dealers who are required to file audit report in Form 704:

- a. Annexures J1 and J2 to be filed along with periodic returns. Those who have not filed J1, J2 along with monthly returns from April 2014 to July 2014 or quarterly return for the period ended June 2014 shall file their annexures for these periods along with return for the period ending Sept 30, 2014.
- b. Annual annexures J1 and J2 shall be continued to be filed along with audit report in Form 704.

For dealers who are NOT required to file audit report in Form 704:

- a. Annexures J1 and J2 to be filed along with periodic returns. Those who have not filed J1, J2 along with monthly returns from April 2014 to July 2014 or quarterly return for the period ended June 2014 shall file their annexures for these periods along with return for the period ending Sept 30, 2014.
- b. The other details in Annexure C, D, G, H and I for the entire year shall be filed along with last monthly return for the year on or before June 30.

- iii. Cir 4T of 2014 had given an option to apply for change in periodicity from six monthly to quarterly for getting quarterly CST declarations. Now, this option is included in Rule 17(4) by adding proviso after sub-clause (iii) to clause (e). The application to be made on or before 15th May of that financial year.
- iv. Form 101 for registration under MVAT amended. Adhaar card (UID) number of proprietor or partner (authorized signatory) to be provided. However, this is not mandatory. Dealer may provide it as a supplementary document for proof of residence.
- v. Due to amendment in Sec 61, audit limit for financial year 2013-14 was raised from Rs 60 lacs to Rs 100 lacs. This amendment was brought after end of financial year 2013-14. Therefore, dealers having turnover more than 60 lacs but less than 100 lacs were not required to submit audit report and they did not submit their Annexures as other non audit dealers. Such dealers are required to file their annexures along with their regular returns for the period ending September 30, 2014. Sub-clause (iii) added to first proviso of clause (d) of Rule 17(4) to give effect to above provision.
- vi. Rule 22 deleted wef Aug 13, 2014. It is an administrative amendment.
- vii. Rule 67(2) amended to provide for Form 604A for intimating findings based upon analysis of electronic data; Form 604 in any other case and Form 605 for closure intimation.

22. Noti No 1514/ CR 58/ Taxation 1 dt Aug 21, 2014 and Cir No 17T of 2014 dt Sep 20, 2014: New composition scheme for **retailers**:

- i. Applicable to **retail dealers** (dealer must be registered) dealing in any goods other than goods covered by entries D-5 (high speed diesel oil), D-10 (any other kind of



- motor spirit) or C-101 (furnishing fabrics). Retailer means dealer whose 9/10th of sales are made to persons who are not dealers.
- ii. Tax payable would be 1% of turnover (including tax free goods) or 1.5% of turnover (excluding tax free goods). The option to pay at 1% or 1.5% may be changed for any return period without pre-intimation.
 - iii. Purchase of taxable goods should be from registered dealers. **However, purchase of tax-free goods may be from unregistered dealers also. Also, packing goods may be purchased from unregistered dealers.**
 - iv. Turnover of **sales** should not be more than Rs 50 lacs in the **previous year** and dealer should **not be importer or manufacturer**. If turnover exceeds Rs 50 lacs, dealers shall be eligible for composition till the end of that year but he shall not be eligible for subsequent year. Turnover of purchases is not relevant.
 - v. Dealer opting for composition cannot claim set off on goods traded and on packing goods. However, set off on capital goods and goods for which benefit of composition has not been availed.
 - vi. Existing composition dealer or a dealer liable to file six monthly returns is eligible to opt for new composition scheme.
 - vii. Eligible dealer has to apply electronically in Form 4A before Oct 31, 2014 for opting for new composition scheme. Otherwise, he will not be eligible for new composition scheme and existing composition dealer shall be deemed to have been opted out.
 - viii. The dealer who opts for composition (the dealer who was not under earlier composition scheme) shall have to reverse the set off claimed by him on stock of goods held by him on September 30, 2014. This tax so reversed shall have to be paid along with composition return for the period ended March 31, 2015.
 - ix. Similarly, if any dealer opts out of composition scheme, he would be eligible to claim set off on purchase of goods which are held by him as stock on Sept 30, 2014. Such set off shall be available to him in his first return as non-composition dealer (ie Oct 2014 to Mar 2015). However, it is clarified in circular that such set off shall be admissible only if he had not claimed it earlier at any time.
 - x. Existing composition dealer who opts out of composition (by not filing Form 4A or filing Form 4B) shall continue to file six monthly for the period from Oct 2014 to Mar 2015.
 - xi. The dealer who wants to opt out of composition scheme shall intimate in Form 4B at the beginning of the year on or before April 30. In such case, he shall cease to be a composition dealer wef April 1 of that year.
23. Cir 16T of 2014 dt Sep 17, 2014: Regarding commencement of e-payment of profession tax, luxury tax and sugarcane purchase tax through GRAS from Sept 18, 2014. Currently, it is optional but soon, it would be made mandatory. Related link is <https://gras.mahakosh.gov.in/salestax>.
24. Noti No VAT-1514/ CR-69/ Taxation – 1 dated Aug 22, 2014: Certain capital goods and parts and components included in Sch entry C-107(2A) wef Sep 1, 2014.
25. Noti No VAT-1514/ CR-69(1)/ Taxation – 1 dated Aug 22, 2014: Amendment in Noti No VAT-1507/CR 93/Taxation-1 dt Jan 21, 2008 wef Sept 1, 2014. Concessional rate of VAT (5%) for sales made to Ministry of Defense and Ministry of Railways withdrawn.
26. Delhi High Court in the case of Anand Decors and Ors v CTT, New Delhi held that sale of used cars is not subject to VAT.
27. Facility of verification of available input tax credit is now available on mahavat. After login, click on last option – “Dealer Information System” to get the details. Therefore, before we upload our audit report, we may verify the ITC to avoid future problems. It also gives information about whether selling dealer is suspicious or a cancelled dealer. This



can greatly avoid subsequent problems related to CDA. Following are the important points related to ITC report:

- ITC report may be viewed for any period starting from April 1, 2014. It is available in excel format also.
- ** Very funny thing about option of putting dates for required ITC report. Drop down menu for year starts with year 2050 and ends with 1900. So, we may expect the data for 150 years.
- The ITC report would keep on changing as and when selling dealer revises his returns or files his audit report. So, existing figures at the time of filing of audit report may not be fully reliable. However, it can definitely help our auditee to take adequate follow up with the selling dealer to rectify the differences.
- ** It appears to me that available ITC is shown only against those dealers from whom we have claimed set off. I have not come across a situation, where set off claimed by my dealer is Nil and ITC report is showing available set off against the same, if available.
- Commodity details, Partner details and Bank details as per department database are also available to see under dealer information system. Commodity details are very useful for getting C forms.

28. VAT set off carry forward chart: Following chart indicates the amount of excess set off that can be carried forward to subsequent year.

From FY	To FY	Maximum amount that can be carried forward	Sec/ Rule/ Cir Reference
2005-06	2006-07	No limit	18T of 2006 (point no 6)
2006-07	2007-08	No limit	41T/ 42T of 2007
2007-08	2008-09	-	Carry forward not allowed
2008-09	2009-10	-	Carry forward not allowed
2009-10	2010-11	Rs 1 lac	15T of 2010
2010-11	2011-12	Rs 1 lac	6T of 2011
2011-12	2012-13	Rs 1 lac	6T of 2012
2012-13 onwards	2013-14 onwards	Rs 5 lac	Sec 50(2)

INCOME TAX:

1. Noti No 2/2015 dt July 13, 2015: Electronic Verification Code (EVC) for e-filed IT returns introduced. Assessee would not have to send acknowledgement to Bangalore if the ITR is validated with EVC. This notification is effective from date of its publication. Four ways of generating EVC provided:
 - i. Verifier logs in to the IT return e-filing website through Net-Banking,
 - ii. EVC generated after Aadhaar authentication using Aadhaar OTP,
 - iii. EVC generated using ATM of a Bank and
 - iv. EVC is generated and sent to registered email ID and mobile number of assessee with e-filing website. This option is available only in cases where total income is upto Rs 5 lacs and there is no refund claim. This option may further be restricted to assesses based on other risk criteria that may be determined from time to time.



2. New income tax return forms notified for AY 2015-16 on June 22, 2015. These forms are ITR 1, 2, 2A and 4S. Rule 12 accordingly amended.
3. Due date for filing income tax returns and wealth tax returns extended from July 31, 2015 to August 31, 2015.
4. Due date of payment of TDS for the month of September 2014 extended from Oct 7, 2014 to Oct 10, 2014 (due to continuous holidays in the first week).
5. Madras High Court Stays Clause 7 of CBDT Order dated 26-09-2014 regarding Extension of ITR Due Date AY 2014-15 with Levy of Interest u/s 234A.
6. Cir No 9/2015: It would help claim pending income tax refunds due to late filing of returns. Also, losses may be carried forward. It would be applicable for previous six years.
- 7.
8. Scrutiny guidelines for FY 2014-15 released:

Compulsory manual selection of cases for scrutiny during the Financial Year 2014-15

In supersession of earlier Instructions on the above subject, the Board hereby lays down the following procedure and criteria for manual selection of returns/cases for scrutiny during the financial-year 2014-2015:-

a) Cases involving addition in an earlier assessment year in excess of Rs. 10 lakhs on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority.

b) Cases involving addition in an earlier assessment year on the Issue of transfer pricing in excess of Rs. 10 crore or more on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority.

c) All assessments pertaining to Survey under section 133A of the Act excluding the cases where there are no impounded books of accounts/documents and returned income excluding any disclosure made during the Survey is not less than returned income of preceding assessment year. However, where assessee retracts the disclosure made during the Survey will not be covered by this exclusion.

d) Assessments in search and seizure cases to be made under section 1588, 1588C, 1588D, 153A & 153C read with section 143(3) of the Act and also for the turns filed for the assessment year relevant to the previous year in which authorization for search and seizure was executed u/s 132 or 132A of the Act.

e) Returns filed in response to notice under section 148 of the Act.

f) Cases where registration u/s 12AA of the IT Act has not been granted or has been cancelled by the CIT/DIT concerned, yet the assessee has been found to be claiming tax-exemption under section 11 of the Act. However, Where such orders of the CIT/DIT have been reversed/set-aside in appellate proceedings, those cases will not be selected under this clause.

g) Cases where order denying the approval u/s 10(23C) of the Act or withdrawing the approval already granted has been passed by the Competent Authority, yet the



assessee has been found claiming tax-exemption under the aforesaid provision of the Act.

h) Cases in respect of which specific and verifiable information pointing out tax- evasion is given by Government Departments/Authorities. The Assessing Officer shall record reasons and take prior approval from jurisdictional Pr. CCIT CCIT/Pr. DGIT/DGIT concerned before selecting such a case for scrutiny.

i) Computer Aided Scrutiny Selection (CASS): Cases are also being selected under CASS on the basis of broad based selection filters. list of such cases shall be separately Intimated In due course by the DGIT(Systems) to the jurisdictional authorities concerned.

j) It is reiterated that the targets for completion of scrutiny assessments and strategy framing quality assessments as contained in Central Action Plan document for Financial-Year 2014-2015 has to be complied with and it must be ensured that all scrutiny assessment orders including the cases selected under the manual criterion are completed through the AST system software only. Further, in order to ensure the quality of assessments being framed, Pr. CCsIT/C.CsIT/Pr. DsGIT/DsGIT should evolve a suitable monitoring mechanism and by 30' April, 2015, such authorities shall send a report to the respective Zonal Member with a Copy to Member (IT) containing details of at least 50 quality assessment orders from their respective charges. In this regard, IT Authorities concerned must ensure that cases selected for publication in 'let us Share' are picked up only from tide quality assessments as reported.

k) These instructions may be brought to the notice of all concerned. If considered necessary supplementary guideline would be issued subsequently.

9. Scrutiny guidelines for FY 2013-14 are:

INSTRUCTION NO. 10/2013 [F. NO. 225/107/2013/ITA.II], DATED 5-8-2013

- i. In super-session of earlier Instructions on the above subject, the Board hereby lays down the following procedure and criteria for manual section of returns/cases for scrutiny during the financial year 2013-2014:
- ii. The targets for completion of scrutiny assessments and strategy of framing quality assessments as contained in Central Action Plan document for Financial Year 2013-2014 has to be complied with. It is being reiterated that all scrutiny assessments including the cases selected under manual criteria will be completed through AST system **software** only.
- iii. The following categories of cases/returns shall be compulsorily scrutinized:—
 - (a) Cases where value of international transaction as defined u/s 92B of IT Act exceeds Rs. 15 crores.
 - (b) Cases involving addition in an earlier assessment year on the issue of transfer pricing in excess of Rs. 10 Crores or **more** which is confirmed in appeal or is pending before an appellate authority.
 - (c) Cases involving addition in an earlier assessment year in excess of Rs. 10 lacs on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority.
 - (d) All assessments pertaining to survey under section 133A of the IT Act excluding the cases where there are no impounded **books** of account/documents and returned income excluding any disclosure made during the Survey is not less than returned



- income of preceding assessment year. However, where assessee retracts the disclosure made during the survey will not be covered by this exclusion.
- (e) Assessment in search and seizure cases to be made under sections 158B, 158BC, 158BD, 153A & 153C read with section 143(3) of the IT Act.
 - (f) All returns filed in response to notice u/s 147/148 of the IT Act.
 - (g) Cases claiming exemption of income u/s 11 or u/s 10(23C) which are hit by proviso(s) to Section 2(15) of IT Act.
 - (h) Entities which received Donations from countries abroad in excess of Rs. One crore during the [Financial](#) Year 2011-2012 (relevant for the A.Yr. 2012-2013) under the provisions of Foreign Contribution Regulation Act (FCRA). Such information is maintained by Ministry of **Home** Affairs and is available on its Website (<http://mha.nic.in/fcra.htm>) may Respective Cadre-Controlling Chief-Commissioners/Directors-General of Income-tax may identify the cases pertaining to their respective Jurisdiction after downloading from the website and disseminate the information to various field offices.
 - (i) Cases in respect of which information is received from other Government Department(s) or other authorities pointing out tax-evasion. The Assessing Officer shall record reasons in such cases and take approval from jurisdictional CCIT/DGIT before selecting such case for scrutiny.
- iv. In order to ensure the quality of assessment orders, CCsIT/DGsIT would evolve suitable monitoring mechanism. The shall analyse at least 50 quality assessments of their respective charges and send the report to respective Zonal Member with copy to Member(IT) with suggestions for improvement by 30th **April**, 2014 CCsIT/DGsIT would further ensure that cases elected for publication in 'let us share' are picked up from quality assessments as reported.
- v. These Instructions may be brought to the notice of all concerned.

SERVICE TAX:

1. Due date of filing service tax returns for the period April to Sept 2014 extended from Oct 25, 2014 to Nov 14, 2014. Date extended due to natural calamities in certain parts of country.
2. Division Bench of Kerala HC upholds Single Judge order, service tax levy on serving food & beverages in AC restaurant, hotel, inn, guest house, club or camp-site u/s 65(105)(zzzzv) & (zzzzw) of Finance Act unconstitutional; Post 46th Constitutional amendment, supply of food & other articles for human consumption in restaurants a 'deemed sale' under Art 366(29-A) and no service involved therein; Said activity enumerated in Entry 54 of List II of Seventh Schedule and States alone have legislative competence to impose tax on whole consideration received; Further, relies on SC decision in Godfrey Philips India Ltd to hold that hotels, inn, clubs, guest-house enumerated in Entry 62 of List II, taxable as 'luxuries' by State legislature; Rejects Revenue's reliance on SC ruling in Tamil Nadu Kalyana Mandapan Assn. to contend that Art. 366(29-A)(f) only permits State to impose tax on supply of food & drink, conceptually, supply of services not included within definition of "sale and purchase of goods"; Said judgment deals with mandap-keeper's liability to service tax, cannot be equated with supply of food & beverages by a restaurant;

THE Kerala High Court has held sub Clauses (zzzzv) and (zzzzw) to Clause 105 of Section 65 of the Finance Act, 1994 as amended by the Finance Act, 2011 as beyond the legislative competence of the Parliament.

zzzzv - service by restaurant in serving food or beverage.



zzzzw - service by a hotel, inn, guest house, club or camp-site for providing of accommodation.

COMPANIES ACT:

1. With effect from April 1, 2014, share capital cannot be taken in cash.

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.

