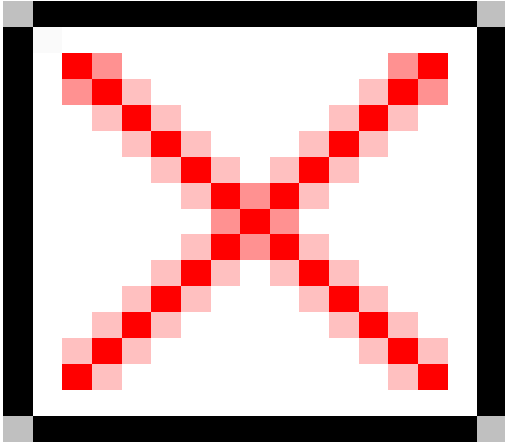


## GST Bills Have to Wait for Next Session of Parliament



TIOL-DDT 2989

13 12 2016

Tuesday

### THE

GST Council meeting on Sunday could not again clear the Bills and they will have to wait for the next session of Parliament in January making the April 1 target almost impossible. Finance Minister Jaitley says the Constitution does not allow the luxury of time and the last date for GST to come into effect is 16th September 2017.

What will happen if GST cannot be brought in by that date? With the States and the Centre not ready to relent on the control issue, that seems to be a stark reality staring at us. Technically, no more indirect taxes from that date. But is there no way out? It seems there is. As per Section 20 of the Constitution (One Hundred and First Amendment) Act, 2016, the President seems to have the power to solve this issue

***If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty.***

Maybe the implementation can go beyond the September deadline.

But it is unfortunate that the whole problem is the question as to who will have control over the assesseees.

### ***2000 rupee notes to go?***

**S.** Gurumurthy, political and economic commentator says that 2000 rupee notes have to be phased out so that high denomination notes don't roam. Maybe that should be the next step. With hundreds of crores of the new 2000 rupee notes finding their way into the black economy, the only way to kill them seems to be demonetising them with no option for exchange or deposit. Corruption and black money will come back but maybe it will take about ten years to build the parallel economy.

### ***Income Tax - No reopening of Old Assessments***

## RECENT

initiatives of the Government to curb the black economy in the country has encouraged people to shift towards digital mode of payment while making financial transactions. By adopting digital mode of payment, no financial transactions would remain undisclosed and consequently an enhanced turnover of business might get reflected in the books of accounts.

Under the circumstances, an apprehension has been raised that increased turnover in the current year may lead to reopening of earlier years' cases involving lower turnover u/s 147 of the Income-tax Act by the Assessing Officer causing undue harassment to taxpayers.

CBDT clarifies that:

Reopening of cases u/s 147 of the Income Tax Act is feasible only when the Assessing Officer

**"has reason to believe that any income chargeable to tax has escaped assessment for any assessment year"** and not merely on the basis of any reason to suspect.

**Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years.**

So, CBDT has advised Assessing Officers not to reopen past assessments in cases merely on the ground that the current year's turnover has increased.

[CBDT Circular No. 40/2016., Dated December 09, 2016](#)

### *Indirect Taxes - No reopening of Old Assessments*

THE CBEC has also issued a similar Circular stating:

Recent initiatives of the government to curb black economy in the country encourage people to shift towards digital mode of payment while making financial transactions. By adopting a digital mode of payment, no financial transaction would remain undisclosed and consequently an enhanced turnover might get reflected in the books of accounts. Under the circumstances an apprehension has been raised that increased turnover on account of use of digital means of payment may lead to demands for the earlier period.

**It is hereby clarified that in indirect taxes, past assessments will not be reopened for this reason alone.**

[CBEC F. No. 137/155/2012-Service Tax\(Part-I\), Dated December 09, 2016](#)

### *No Cash but Tax Collections Soar*

## THE

figures for indirect tax collections (Central Excise, Service Tax and Customs) up to November 2016 show that net revenue collections are at Rs 5.52 lakh crore, which is 26.2% more than the net collections for the corresponding period last year.

Central Excise, net collections stood at Rs. 2.43 lakh crore during April-November, 2016 as compared to Rs.1.69 lakh crore during the corresponding period in the previous Financial Year, thereby registering a growth of 43.5%.

Net Tax collections on account of Service Tax during April-November, 2016 stood at Rs. 1.60 lakh crore as compared to Rs.1.27 lakh crore during the corresponding period in the previous Financial Year, thereby registering a growth of 25.7%.

Net Tax collections on account of Customs during April-November 2016 stood at Rs. 1.48 lakh crore as compared to Rs. 1.40 lakh crore during the same period in the previous Financial Year, thereby registering a growth of 5.6%.

### *Customs - Simplified procedure for amendments in Import General Manifest*

**AS** a trade facilitation measure, a consolidated guideline for carrying out amendment to the IGM is issued by the Mumbai Customs with twin objectives of ease of doing business and to reduce the dwell time of imported cargo clearance.

The amendment types in IGM are categorized as "**Major**" amendments and "**Minor**" amendments.

As per Board Circular 44/2005-Cus dated 24.11.2005 the need for adjudication in case of IGM amendments, will arise only, in cases, where there are major amendments involving fraudulent intention or substantial revenue implication, arising from the amendments. Hence, except such cases, in all other cases no adjudication shall be undertaken and the approval of IGM amendments will be given on file.

The minor amendments shall be approved promptly and in no case beyond 24 hours of the submission of complete application along with all the required documents. All major amendments shall be approved within 48 hours of the submission of the complete application. For any reason if the amendments cannot be approved within the stipulated time period, the matter will be brought to the notice of ADC/JC (Import Noting).

Further to ensure uniformity of procedure for carrying out amendment to the IGM, the Shipping lines will be required to submit application for amendment on their letterhead in form Annexure "**A**" along with the documents mentioned in Annexure "**A**". The appropriate officer, if necessary could ask for any other relevant document(s).

For amendment in the consignee name, where first consignee name is totally different and it doesn't exist, it cannot be considered as a typographical error. An indemnity bond duly notarized to Customs from second consignee and a letter from Shipping Line, indemnifying Customs against any claim in the name of the first consignee regarding the shipment would thus be required.

For amendment in the consignee name, where first consignee exists, NOC from the first consignee in original is required. Since amendment in the consignee name is usually an issue of ownership of the consignment, in case the first consignee is not giving NOC for the change of consignee name, it is suggestive of a dispute between the first consignee and supplier/second consignee. In such cases, as a matter of principle, Customs has no role/interference in the ownership of the consignment, and it is an issue of civil dispute.

In cases where the first consignee exists but has not given NOC for such amendment, the matter should be examined by AC/DC, Import Noting and the decision in this regard should be taken in light of the Civil Court's decision or other material facts on record.

In case of change of Bill of Lading Number, the Shipping Line should submit copy of the surrendered Master Bill of Lading and original consignee name should appear in House Bill of Lading.

Since the responsibility of amendment in the IGM rests solely with the Shipping Line/Agent, as they file IGM with Customs under section 30 of Customs Act, 1962. It is clarified that the fine/penalty imposed, if any, upon adjudication in such cases, shall be payable by the Shipping Line only. No fine/penalty is required to be imposed on the consignee or others. No request for any amendment in the IGM from Custom Broker/Importer will be entertained.

Procedure in Case of HIGH-SEAS SALE (in terms of Para 2.24 of Foreign Trade Policy)-

In case of High Seas Sales, the following documents are required to be submitted-

1. High Seas Sales contract signed by both the buyer and seller and duly notarised. In the cases where the HSS Contract is not notarised, the same is required to be attested by the authorized signatory of Bankers. The date of Contract / Notarisation/Attestation by the bankers should be not later than the date of the IGM;
2. Non-negotiable copy of Bill of Lading in original. If same is not available, then a photocopy of such Bill of Lading duly authenticated by Shipping Line/Steamer Agent/ Custom Broker;
3. High Seas Sale Invoice and Commercial Invoice in original or a duly attested Copy thereof;
4. Authority letter for Custom Broker from High Seas Sales buyer in original (if CB is appointed) or application from High Seas Sales buyer, addressed to Deputy/Assistant Commissioner of Customs, Import Noting, New Custom House, Ballard Estate, Mumbai;
5. IEC copy of both the buyer and the seller.

*What is Single Objective for Reserve Bank of India?*

**WHEN** he was asked about whether he believed in a single objective for the Central Bank (of maintaining price stability), YV Reddy, a former Governor of the Reserve Bank would answer,

***"Yes, I believe in single objective, which is to protect the economy from the government of India."***

Until Tomorrow with more **DDT**

**Have a nice day.**

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