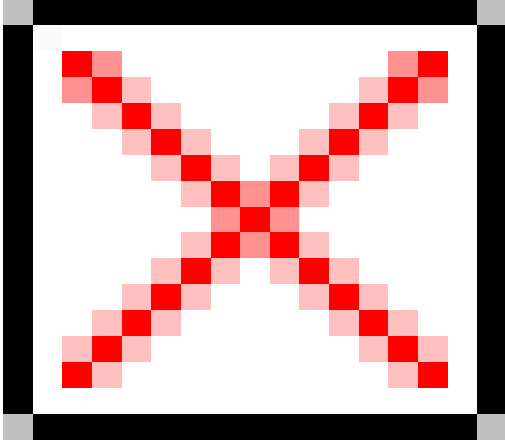


Income Tax - Due Date for Payment of Advance Tax Should be Extended in TN



TIOL-DDT 2991

15 12 2016

Thursday

TODAY

is the last date for payment of December instalment of advance tax for the Financial Year 2016-17. Life is totally disrupted in Tamil Nadu due to the cyclone. Payment of tax would be very difficult as there is no power and internet in many areas. The CBDT should immediately issue a notification extending this date to at least 31st December.

Incidentally, Tamil Nadu faced a similar problem last year too and the date was extended to 31 st December 2015.

Please see [DDT 2746 16 12 2015](#)

Customs - Verification of Bank Guarantee - Email instead of Fax

FOR

many purposes like registration of licence, provisional release of consignments, to get exemption benefit etc., Customs is required to verify and confirm legitimacy of Bank Guarantee/Certificate/LUT issued with issuing Bank/concerned Central Excise authority /issuing authority etc. In most of the cases, officers are verifying the veracity of these documents with the authority concerned either by post or by fax. However, in most of the offices, officers do not have fax facility and verification through speed post takes a long time for verification.

Government of India has taken-up a number of initiatives for promoting 'Ease of doing business'. One of the ways to make Customs clearance easier is to reduce the use of paper and to introduce electronic messaging and paperless processing.

To make communication faster, paperless and easier, the JN Customs has directed that verification/confirmation of the documents should be done through e-mail by using official emailids.

[JN Customs Public Notice No. 173/2016., Dated: December 14, 2016](#)

Important Decisions of GST Council

THE Government in a Press Release says, some of the important decisions taken in the last six Meetings of the GST Council are:

1. The threshold limit for exemption from levy of GST would be Rs.20 lakhs for normal States (Rs.10 lakhs for the Special Category States enumerated in Article 279A of the Constitution).
2. The threshold for availing the Composition scheme would be Rs.50 lakhs. Service providers would be kept out of the Composition scheme.
3. To compensate States for 5 years for loss of revenue due to implementation of GST, the base year for the revenue of the State would be 2015-16 and a fixed growth rate of 14% will be applied to it.
4. Approval of the Draft GST Rules on Registration; Payment; Return; Refund and Invoice, Debit & Credit Notes with the understanding that minor changes may be permitted with the approval of the Chairperson, if required, due to suggestions from the stakeholders or from the Law Department.
5. All entities exempted from payment of indirect tax under any existing tax incentive scheme would pay tax in the GST regime and the decision to continue with any incentive scheme shall be with the **concerned** State or Central Government. In case any State Government or Central Government decides to continue any existing exemption/incentive scheme, it will be administered by way of a reimbursement mechanism.
6. Bands of rates of goods under GST shall be 5%, 12%, 18% and 28% and in addition there would be a category of exempt goods. Further, a cess would be levied on certain goods such as luxury cars, aerated drinks, pan masala and tobacco products, over and above the rate of 28% for payment of compensation to the States.

I Shall be there when you need me - PM Modi

THE Prime Minister said yesterday,

India is currently witnessing an economic transformation.

It is not only one of the fastest growing large economies in the world. It is also marked by initiatives centered around:

- + ease of doing business
- + making governance transparent and efficient
- + reducing regulatory overburden

Presently, cleaning the system from black money and corruption is very high on my agenda.

This comes closely after digitisation and introduction of GST.

I would like to highlight some of our achievements:

1. We have now become the sixth largest manufacturing country in the world.
2. Our Gross Value Added in manufacturing has recorded a growth of 9.3 per cent in 2015-16.
3. 51 cold chain projects have been completed in the last two years and six Mega Food Parks have been opened since 2014;
4. 19 new textile parks have been sanctioned and 200 new production units have come up in existing textile parks in the last 2 fiscal years.
5. This year saw 90 per cent jump in number of mobile phone units manufactured in India;

6. Leading global players in the auto sector have setup various new assembly lines and Greenfield units.

Our efforts to ensure 'Ease of Doing Business' in India have been comprehensive and wide ranging, including legislative and structural.

I am happy to share that:

The constitutional amendment for Goods and Services Tax has been passed. This is expected to be implemented in 2017.

We are moving towards a digital and cashless economy.

Our licensing regime has been greatly rationalised.

We have launched Single Window Interfaces for registering a business, EXIM clearances and Labour compliance.

Procedures involved in getting utilities like water and electricity are being simplified.

An investor facilitation cell has been created to guide and assist the investors.

Our partnership with the State Governments has also enhanced considerably since the launch of Make in India.

In association with the World Bank, the States were ranked on the basis of their business policies and procedures on agreed parameters in 2015. This was further expanded in 2016.

India is currently buzzing with entrepreneurial activity like never before.

Start-ups are the next big economic force in India and are no less than a revolution.

Our 'Start-up India' program aims to unleash our potential in this area.

Our economic process is being geared towards activities which are vital for generating employment or self-employment opportunities.

This is the only way to reap the demographic dividend.

Through the 'Skill India' initiative and its various components, we are trying to synergise the skills to the market requirements.

Building futuristic infrastructure is the biggest task at hand.

We are developing a 'pentagon' of industrial corridors across the country.

There is immense focus on removing the logistic constraints across the country.

Roads, railways, ports are being upgraded across the country.

This is a time for integration.

Integration cannot happen without openness.

India has always been open at the heart.

we are among the most open and integrated economies.

We welcome those who are not there in India so far.

I personally assure you that I shall be there when you need me.

India is not only a good destination;

It is always a good decision to be in India.

Income Tax - No Revised Return to Launder Black Money

THE Income Tax Department in a Press Note (also covered in our Mixed Buzz) yesterday stated:

Post demonetization of the currency on 8th November, 2016, some taxpayers may misuse the provision to revise the return-of-income filed by them for the earlier assessment year, for manipulating the figures of income, cash-in-hand, profits etc. with an intention to show the current year's undisclosed income (including the unaccounted income held in the form of demonetized currency in current year) in the earlier return.

The Department clarifies:

The provision to file a revised return of income u/s 139(5) of the Act has been stipulated for revising any omission or wrong statement made in the original return of income and not for resorting to make changes in the income initially declared so as to drastically alter the form, substance and quantum of the earlier disclosed income.

The Department warns:

Any instance coming to the notice of Income-tax Department which reflects manipulation in the amount of income, cash-in-hand, profits etc. and fudging of accounts may necessitate scrutiny of such cases so as to ascertain the correct income of the year and may also attract penalty/prosecution in appropriate cases as per provision of law.

ST - The contention that the person, to whom the burden of tax is ultimately passed on, is entitled to challenge a levy, if accepted, would lead to disastrous consequences - SC Dismisses SLP

THE Supreme Court yesterday dismissed an SLP filed by a service taxpayer against a judgement of the Madras High Court.

The High Court had in the case reported by us in [2016-TIOL-824-HC-MAD-ST](#) held that:

Service Tax - Construction Service - Joint Development Agreement - Writ Petition by landowner seeking to declare the CBEC Circular No 151/2012 dated 10.02.2012 and TRU letter dated 20.01.2016 as unconstitutional.

Maintainability - The writ petition is not maintainable, inasmuch as the law makes the service provider liable to pay service tax. It is always open to the service providers either to pass on the burden to the recipient of the services or not to pass it on. Under Clause 23 of the agreement for development, the petitioner and his siblings, who are the service recipients, agreed to take the burden to the extent they are liable. Therefore, the circulars, cannot be challenged by the petitioner.

Locus standi - The contention that the person, to whom the burden of tax is ultimately passed on, is entitled to challenge a levy, if accepted, would lead to disastrous consequences. Any increase in the incidence of sales tax affects all consumers of all products. Millions of consumers are entitled to come and challenge such levies, if such a contention is accepted. Therefore, the petitioner has no **locus standi** to challenge the above circulars.

Exchange of land with constructed area amounts to service by builder - It is not an easy proposition that it was a transfer of immovable property by way of sale or exchange - The agreement gave rise to a bouquet of rights for the builder. One was to put up a construction of an area, a part of which could be sold by them to third parties. They could be sold not only as such, but also along with the undivided share of land. Those parties had certainly availed the services of the builder as a service provider. The petitioner did not stand on a different footing than those persons. Therefore, the challenge of the petitioner to the circular, apart from the question of **locus standi**, does not merit acceptance.

Please see [2016-TIOL-225-SC-ST](#)

Demonetisation in Australia?

IS Australia going to follow India in its fight against black money. The Australian Minister for Revenue in a media release yesterday said,

Australians need to have confidence in our tax system.

Nothing makes fair minded Australians angrier than having to pay more tax as a result of someone else not paying the tax that they are supposed to pay.

That is why Government has already acted to close loopholes for multinational tax avoidance, strengthened the powers of the Australian Taxation Office and doubled penalties on large companies that are ripping off the Australian taxpayer. In addition to our thin capitalisation changes and our announced new diverted profits tax, these changes make Australia one of the toughest countries in the world on multinational tax avoidance.

Our next efforts need to focus on the 'black economy'.

While there is no single, internationally-agreed definition, typically, the black economy refers to people who operate entirely outside the tax system or who are known to tax authorities but deliberately misreport their tax obligations. The black economy can also include those engaged in organised crime, including those who engage in the production and sale of prohibited goods.

According to the ABS, it is estimated that the black economy in Australia could be as large as 1.5 per cent of our gross domestic product or around \$24 billion dollars.

Black economy activities are both unfair for honest taxpayers and undermine our tax and welfare systems.

Tackling the black economy requires a whole of government approach and participants will include the Reserve Bank of Australia, the Australian Federal Police, ASIC, APRA, AUSTRAC, and the Departments of Human Services and Immigration.

An Australian newspaper commented:

Presumably, the government was not inspired by the chaos triggered in India in recent weeks by Prime Minister Narendra Modi's snap decision to retire all 500 and 1000 rupee notes.

Judges need the Bar and look to it for a dispassionate guidance through the law's thickets. When we are encouraged instead to lose our way, that need is fatally imperilled. - Bombay High Court in a recent judgement

Until Tomorrow with more **DDT**

Have a nice day.

Mail your comments to vijaywrite@tiol.in