

**2014
APRIL**

P. K. LUHARUKA & CO.
CHARTERED ACCOUNTANTS
MONTHLY NEWSLETTER
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THIS ISSUE GIVES AN UPDATE ON ASPECTS ON WHICH THE CBDT, CBEC, RBI, MINISTRY OF CORPORATE AFFAIRS AND THE WEST BENGAL GOVERNMENT THINK NEED CHANGES OR CLARIFICATIONS, A FEW RELEVANT CASE LAWS RELATING TO INCOME TAX, AN ANNOUNCEMENT BY THE ICAI AND A DUE DATES CALENDAR FOR THE MONTH OF APRIL.

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DIRECT TAXES

The Direct Tax Code, 2013 along with Direct Tax Code Bill, 2010 is placed on <http://incometaxindia.gov.in>. A write-up on the significant changes in the proposed DTC, 2013 is also placed on the website. The report of the Standing Committee on Finance is available at the <http://loksabha.nic.in>. Comments, if any, on proposed DTC, 2013 may be sent on email ID: dtc13-dor@nic.in.

INDIRECT TAXES

- a. Service Tax Return (ST-3) for the period October 2013 – March 2014 is now available for e-filing by the assesseees in both offline and online version. The last date of filing the ST-3 return for the said period is 25th April, 2014. The assesseees can file return either online or use the offline utility by downloading the latest version from <http://acesdownload.nic.in/> or from 'DOWNLOADS' Section of ACES website. [Link - https://www.aces.gov.in/whatsNew.jsp](https://www.aces.gov.in/whatsNew.jsp)
- b. The Central Board of Excise and Customs hereby directs that the refund of CENVAT credit shall be allowed to a provider of services notified under sub-section (2) of section 68 of the Finance Act, 1994, subject to the procedures, safeguards, conditions and limitations, as specified in the notification attached below. An application for refund shall be filed in Form A, along with the documents and enclosures specified therein, to the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, before the expiry of one year from the due date of filing of return for the half year. The last date of filing of application in Form A, for the period starting from the 1st day of July, 2012 to the 30th day of September, 2012, shall be the 30th day of June, 2014. [\(Attached Notification No. 12/2014 – Central Excise \(N.T.\), dated 3rd March, 2014\)](#)

RESERVE BANK OF INDIA

RBI, in its first bi-monthly monetary policy statement for 2014-15, decided to keep both the policy repo rate under the Liquidity Adjustment Facility and the cash reserve ratio unchanged at 8.0 per cent and 4.0 per cent respectively. The governor, Mr. Raghuram Rajan, further stated that the central bank's policy stance will be firmly focused on keeping the economy on a disinflationary glide path that is intended to hit 8 per cent CPI inflation by January 2015 and 6 per cent by January 2016. Therefore, at the current juncture, the governor announced hold in the policy rate, while allowing the rate increases undertaken during September 2013-January 2014 to work their way through the economy. The governor gave something to cheer for the investors when it announced that if inflation continues along the intended glide path, further policy tightening in the near term is not anticipated at this juncture. http://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=30911

RBI also released Macroeconomic and Monetary Developments 2014-15 (An Update) in which a detailed assessment of the global and domestic economy has been made by the central bank and an outlook for the future has been given. (Relevant document can be downloaded from <http://rbidocs.rbi.org.in/rdocs/Publications/PDFs/MM01042014D84537B376.pdf>)

COMPANY LAW

The government has further notified 183 sections of the Companies Act 2013, which will be operational from April 1, 2014. The ministry has already notified 98 sections of the new legislation along with the rules governing the Corporate Social Responsibility. Following such notifications the ministry has also notified certain other rules governing the Companies. (Relevant documents can be downloaded from the ministry website: www.mca.gov.in)

MEMBERS

For the benefit of the members, the Auditing and Assurance Standards Board of the Institute of Chartered Accountants of India has issued Guidance Note on Audit of Banks 2014. (The documents can be downloaded from the link http://www.icai.org/new_post.html?post_id=10441&c_id=219)

WEST BENGAL STATE LAWS

The Government of West Bengal has brought a change in the procedure of filing application for amendment in the certificate of registration by a dealer registered under the WBVAT Act, 2003. The existing manual process has been replaced by the **compulsory** electronic process except for certain amendment cases not available in the list of amendments enumerated in the “e-Amendment of Registration” application. The amendment process can be availed after logging in through the user ID & password allotted. (Attached Trade Circular No. 04/2014, dated 14/03/2014)

CASE LAWS

- a. A charitable and religious trust which does not benefit any specific religious community is not hit by section 13(1) (b) & is eligible to claim exemption u/s 11 – **CIT vs. M/s Dawoodi Bohara Jamat (Supreme Court)**
- b. Expenditure on foreign education of employee (son of director) is deductible if there is business nexus – **M/s. Kostub Investment Ltd vs. CIT (Delhi High Court)**
- c. Section 56(2)(vii) does not apply to bonus & rights shares offered on a proportionate basis even if the offer price is less than the FMV of the shares – **Sudhir Menon HUF vs. ACIT (ITAT Mumbai)**

P. K. Luharuka & Co.,
Chartered Accountants Calendar
01 April 2014 – 30 April 2014

April 2014

M	T	W	T	F	S	S	
		1	2	3	4	5	6
<u>7</u>	8	9	<u>10</u>	11	12	13	
14	<u>15</u>	16	17	18	19	20	
<u>21</u>	22	23	24	<u>25</u>	26	27	
28	29	<u>30</u>					

Details

07 April 2014



Subject Due Date of Monthly payment of TCS in March u/s 206C



Subject Due Date of Monthly payment of TCS in March u/s 206C



Subject Submission of copy of declaration forms (Form 15G and form 15H) received for non deduction of TDS under section 197A before the Chief Commissioner or Commissioner

10 April 2014



Subject Due Date of ER- 3 for SSI assesseees for the quarter January - March



Subject Due Date of ER-1 for Non-SSI assesseees and ER-2 for EOU units for the month of March

15 April 2014



Subject Bengali New Year



Subject Due Date of Payment of PF for the month of March (plus grace period of 5 Days)

21 April 2014



Subject Due Date of Payment of ESI for the month of March

25 April 2014



Subject Due Date for filing Half Yearly Service Tax Return for the half year October-March of previous FY (Form ST 3)

30 April 2014



Subject Due Date of deposit of TDS where income or amount is paid or credited in the month of March (Challan No./ ITNS. 281)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification

New Delhi, dated the 3rd March, 2014

No.12/2014 – Central Excise (N.T.)

G.S.R. (E). – In exercise of the powers conferred by rule 5B of the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), the Central Board of Excise and Customs hereby directs that the refund of CENVAT credit shall be allowed to a provider of services notified under sub-section (2) of section 68 of the Finance Act, 1994, subject to the procedures, safeguards, conditions and limitations, as specified below, namely:-

1. Safeguards, conditions and limitations. –

(a) the refund shall be claimed of unutilised CENVAT credit taken on inputs and input services during the half year for which refund is claimed, for providing following output services namely:-

- (i) renting of a motor vehicle designed to carry passengers on non abated value, to any person who is not engaged in a similar business;
- (ii) supply of manpower for any purpose or security services; or
- (iii) service portion in the execution of a works contract;

(hereinafter the above mentioned services will be termed as partial reverse charge services).

Explanation:- For the purpose of this notification,-

Unutilised CENVAT credit taken on inputs and
input services during the half year for providing = (A) – (B)
partial reverse charge services

Where,

A = $\frac{\text{CENVAT credit taken on inputs and input services during the half year}}{\text{turnover of output service under partial reverse charge during the half year}}$ (*) total turnover of goods and services during the half year

B = Service tax paid by the service provider for such partial reverse charge services during the half year;

(b) the refund of unutilised CENVAT credit shall not exceed an amount of service tax liability paid or payable by the recipient of service with respect to the partial reverse charge services provided during the period of half year for which refund is claimed;

(c) the amount claimed as refund shall be debited by the claimant from his CENVAT credit account at the time of making the claim;

(d) in case the amount of refund sanctioned is less than the amount of refund claimed, then the claimant may take back the credit of the difference between the amount claimed and the amount sanctioned;

(e) the claimant shall submit not more than one claim of refund under this notification for every half year;

(f) the refund claim shall be filed after filing of service tax return as prescribed under rule 7 of the Service Tax Rules for the period for which refund is claimed;

(g) no refund shall be admissible for the CENVAT credit taken on input or input services received prior to the 1st day of July,2012;

Explanation. – For the purposes of this notification, half year means a period of six consecutive months with the first half year beginning from the 1st day of April every year and second half year from the 1st day of October of every year.

2. Procedure for filing the refund claim. – (a) the provider of output service, shall submit an application in Form A annexed hereto, along with the documents and enclosures specified therein, to the jurisdictional Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, before the expiry of one year from the due date of filing of return for the half year:

Provided that the last date of filing of application in Form A, for the period starting from the 1st day of July,2012 to the 30th day of September,2012, shall be the 30th day of June,2014;

(b) if more than one return is required to be filed for the half year, then the time limit of one year shall be calculated from the due date of filing of the return for the later period;

(c) the applicant shall file the refund claim along with copies of the return (s) filed for the half year for which the refund is claimed;

(d) the Assistant Commissioner or Deputy Commissioner to whom the application for refund is made may call for any document in case he has reason to believe that information provided in the refund claim is incorrect or insufficient and further enquiry needs to be caused before the sanction of refund claim;

(e) at the time of sanctioning the refund claim, the Assistant Commissioner or Deputy Commissioner shall satisfy himself or herself in respect of the correctness of the refund claim and that the refund claim is complete in every respect;

FORM A

Application for refund of CENVAT Credit under rule 5B of the CENVAT Credit Rules, 2004 for the half year beginning from 1st of April/1st of October

To,

The Assistant Commissioner or Deputy Commissioner of Central Excise,

.....

Sir,

I/We have provided taxable services where service recipient is also liable to pay service tax in terms of sub-section (2) of section 68 of the Finance Act, 1994. Accordingly the refund of CENVAT Credit in terms of Rule 5B of the CENVAT Credit Rules, 2004 (as per the details below) may be sanctioned.

(a) Particulars of output services provided and service tax liability of the service provider and the service recipient during the period of half year for which refund is claimed:-

Sl. No	Description of service	Value of output services provided during the half year	Total Service tax liability during the half year	Service tax liability discharged by the provider of output service during the half year	Service tax liability of the receiver of such output service during the half-year [Column 3 –Column 4]
	1	2	3	4	5
1	renting of a motor vehicle designed to carry passengers on non abated value, to any person who is not engaged in a similar business				
2	supply of manpower for any purpose or security services				
3	service portion in the execution of a works contract				
Total					

(b) Particulars of the amount eligible for refund at the end of the half year:-

Period beginning from 1 st	Service tax liability of the receiver of such output service	Amount of unutilised CENVAT Credit taken on inputs or input services during the half year for	The eligible refund amount (minimum of
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April/1 st October	during the half-year (total of column 5 of above table)	providing services taxable under partial reverse charge [as calculated in para 1(a) of the notification].	column 2 and 3)
1	2	3	4

(c), I/we have debited the CENVAT credit account by Rs. for seeking refund.

2. Details of the Bank Account to which the refund amount to be credited: Refund sanctioned in my favour should be credited in my/ our bank account.

Details furnished below;

- (i) Account Number :
- (ii) Name of the Bank :
- (iii) Branch (with address):
- (iv) IFSC Code:

3. Declaration

- (i) I/We certify that the aforesaid particulars are correct.
- (ii) I/We certify that we satisfy all the conditions that are contained in rule 5B of the CENVAT Credit Rules, 2004 and in Notification No. 12/2014-CE (NT), dated 3rd March,2014.
- (iii) I/We am/are the rightful claimant(s) of the refund of CENVAT Credit in terms of rule 5B, the same may be allowed in our favour.
- (iv) I/we have been authorised as the person to file the refund claim on behalf of the assessee.
- (v) I/We declare that we have not filed or will not file any other claim for refund under rule 5B of CENVAT Credit Rules, 2004, for the same half year to which this claim relates.

Date d d m m y y y y *Signature of the Claimant*

(proprietor/karta/partner/any other authorised person)

Name of the Claimant

Registration Number

Address of the Claimant

4. Enclosures:

- (i) Copy of the ST-3 returns for the half year.

5. Refund Order No.

Date

d	d	m	m	y	y	y	y
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The refund claim filed by Shri/Messrs _____ has been scrutinized with the relevant Central Excise/ Service Tax records. The said refund claim has been examined with respect to relevant enclosures and has/has not been found in order. A refund of Rs. _____ (Rupees _____) is sanctioned/The refund claim filed is rejected.

Assistant Commissioner or Deputy Commissioner of Central Excise

Forwarded to-

- (i) The Chief Accounts officer, Central Excise, for information and necessary action.
- (ii) The Commissioner of Central Excise.

Assistant Commissioner or Deputy Commissioner of Central Excise

(i) Passed for payment of Rs. _____ (Rupees _____) The amount is adjustable under head "0044 - Service tax - Deduct Refunds".

(ii) Amount credited to the account of the claimant as per the details below :

Amount refunded	
Account Number	
Reference No. of transfer	
Name of the Bank	
Address of the Branch	
IFSC code	

Date

d	d	m	m	y	y	y	y
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Chief Accounts officer

[F.No. 354 /247/ 2012-TRU]

(Akshay Joshi)
Under Secretary to the Government of India

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA -15

Trade Circular No. 04/2014

Dated: 14/03/14

Sub: Change in procedure of submission of application for and amendment of certificate of registration by dealers registered under the WBVAT Act, 2003.

As part of ongoing computerization process, a change has been brought about in the procedure of filing application for amendment in the certificate of registration by a dealer registered under the WBVAT Act, 2003. Instead of the existing manual process, he shall have to make his application compulsorily to his assessing authority electronically. However, for amendment cases that are not available in the list of amendments enumerated in the “e-Amendment of Registration” application, dealers shall apply before the respective assessing authority following the existing manual procedure.

The new procedure to be followed by every dealer is laid down below:

- Dealer intending to apply for amendment in his RC will log on in the Directorate’s website www.wbcomtax.gov.in using his user ID and password allotted to him. No manual application shall be entertained.
- He has to submit his amendment application online in the Form as may be applicable in his case following the instruction given therein. He will get a print out of an acknowledgment slip for such submission.
- After transmitting the data electronically, he will send a duly signed print-out of the application along with a photo copy of the acknowledgment slip, self attested photocopies of the necessary supporting documents in connection with the amendment and original RC issued to him prior to the introduction of e-generation of R.C, by hand including courier/ by speed post or registered post to his assessing authority within ten working days from the date of making application electronically. Assessing authority will take care of the court fee matter separately.
- If his assessing authority is satisfied that the application is in order, he shall, within forty five days from the date of receipt of the print-out of the application, amend the RC of the dealer and will inform the

applicant dealer the fate of his application through e-mail. The dealer can take print-out of the dematerialized amended RC from the dealer's profile in the website.

This new procedure shall come into force with immediate effect. Any application filed for amendment of RC manually prior to this date must be disposed of within 31.03.2014. All manual applications, found not disposed as on 31.03.2014, shall be deemed to have been rejected or non-applied at all. Those dealers are to make fresh applications using online module.

Sd/- 14.03.2014
(Binod Kumar)
Commissioner,
Sales Tax, West Bengal

Memo No. 239 CT/PRO
3C/PRO/2012

Date: 14.03.2014

Copy forwarded to Addl.CCT/ISD for information with the request for uploading it in the Directorate's website for information of all concerned.

Sd/- 14.03.2014
K.C.Chowdhury
Addl.CCT/WB