STANDING CONFERENCE OF PUBLIC ENTERPRISES

(An apex body of Public Enterprises)

BUDGET RECOMMENDATIONS 2022-23

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(An apex body of Public Enterprises)
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SCOPE
PROMOTING EXCELLENCE

INDEX

Part –A **Direct Tax**

Part –B **Indirect Tax**

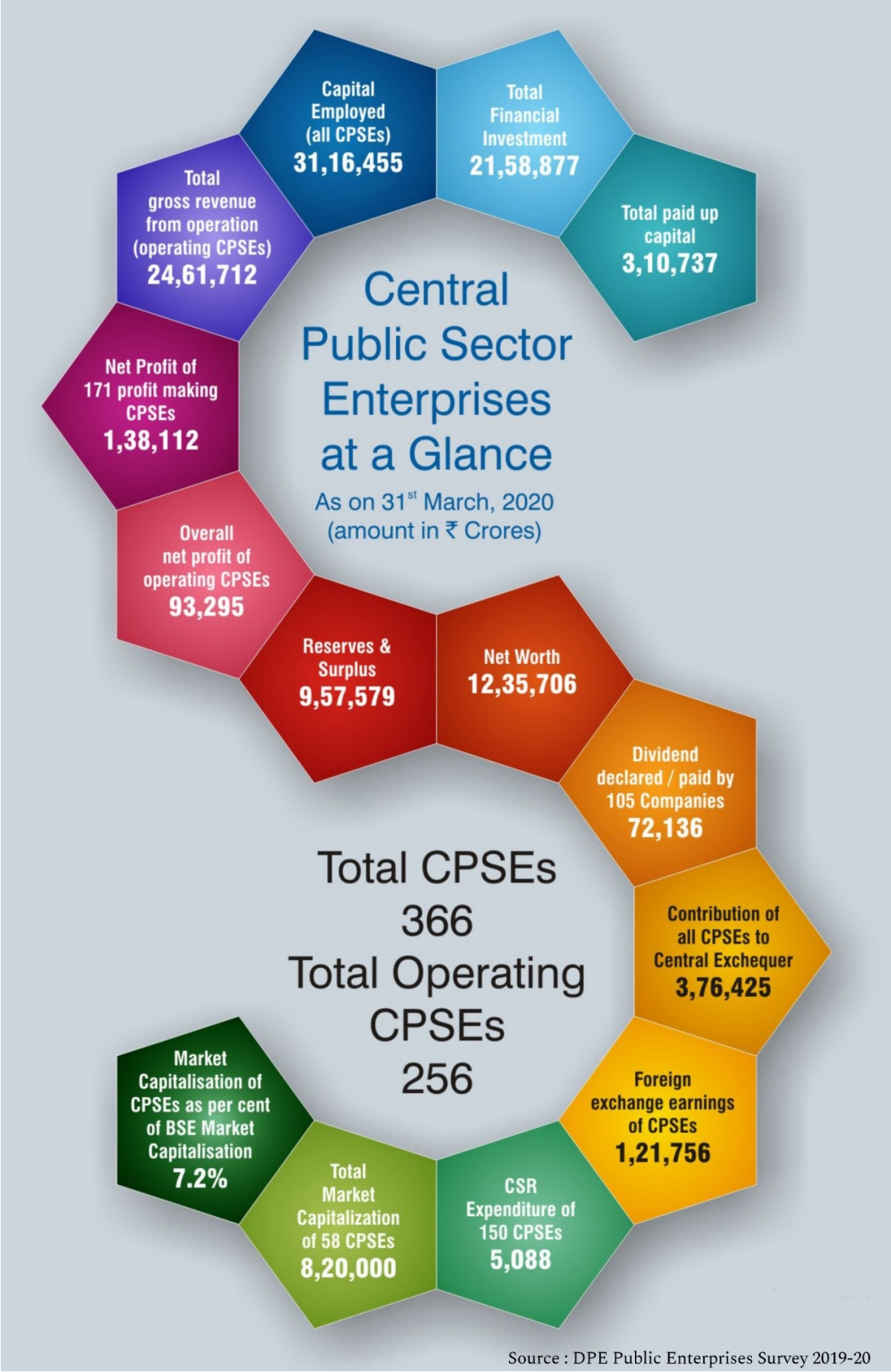
PREFACE

Standing Conference of Public Enterprises (SCOPE) is an apex professional organization representing the Central Government Public Enterprises. It has also some State Enterprises, Banks and other Institutions as its Members. SCOPE activities are centered around supporting and enhancing excellence of PSEs in becoming globally competitive enterprises.

Public sector enterprises have been set up to serve the broad macro-economic objectives of higher economic growth, self-sufficiency in production of goods and services (i.e. Aatm Nirbhar Bharat), long term equilibrium in balance of payment and to stable prices of essential commodities. With the government's continuous support, the SCOPE has taken upon itself to actively engage with the Government, regulatory bodies and policy makers for creating conducive policy framework for improving PSEs competitiveness and thus promoting excellence and their higher growth.

To achieve the target of $5 trillion economy by FY25, expectations from the forthcoming budget are very high since economy has been impacted in last two years due to Covid Pandemic. Although there are indications that economy is on the path of recovery, still some concrete steps are required to be taken so that the economy transits into a higher growth orbit while remaining inclusive and sustainable.

In anticipation of some positive steps to be announced by the Government, our member organizations (i.e. PSEs) have approached us to represent their views & expectations before Government of India for Budget 2022. In this backdrop, SCOPE has prepared this Pre-Budget Memorandum 2022 in consultation with representatives of PSEs. We hope that the recommendations given in this Pre-Budget Memorandum will help to identify the areas where Government's support would be helpful in furthering Hon'ble PM's vision to make India self reliant.



Source : DPE Public Enterprises Survey 2019-20

PART A:

DIRECT TAX

PART-A

RECOMMENDATIONS ON DIRECT TAXES

1. TAX RATES

1.1 ISSUE

Lowering of Income tax rate

PRESENT POSITION

New provision has been inserted by way of ordinance into the income tax act with effect from fiscal year 2019-20, that allows any domestic company

i) To pay income tax at the rate of 25.17%, subject to condition they will not avail any incentive or exemptions.

ii) Manufacturing companies set up after October 1, 2019 to get option to pay 17.16% inclusive of surcharge & cess.

iii) MAT rates have slashed from 18.5% to 15% for companies and no MAT for companies opting for new tax rate at 25.17%

PROPOSED CHANGES

The additional depreciation being claimed by manufacturing companies is treated as incentives and such manufacturing companies have to forego the additional depreciation in order to opt for lower tax regime. It may be noted that the manufacturing industries are capital intensive in nature and if the lower tax regime has to be benefited, the same has to be extended by providing additional depreciation also. Only then, the real benefit of lower tax regime will be reaped by the Manufacturing sector.

1.2 ISSUE

Lower corporate tax rate for new manufacturing companies – Sun set clause for commencement of manufacturing activities

PRESENT POSITION

As per section 115BAB, domestic company will be entitled to the benefit of lower corporate tax rate i.e. base rate of 15% (effective tax rate @ 17.16%), if the company has been set up and registered on or after 1 October 2019 and has commenced manufacturing on or before 31 March 2023.

Large projects, like new refineries and petrochemical plants, with substantial capex involve long gestation period. But they have the potential for large direct and indirect employment besides triggering further industrial development and further employment opportunities and support the

Government Vision of Atma Nirbhar and boost domestic manufacturing with high compounding potential.

Such large investment would entail long construction period of more than 4 years and a long gestation period. Certainty of lower tax rate, will help in supporting the economics of the project. Uncertainty of tax rates, will hamper the investments.

PROPOSED CHANGES

Hence, it is suggested that lower tax rates may be allowed for all investment above threshold of say Rs.10,000 crores, which involves substantial construction time. Also, present COVID situation justifies extension/removal of sun set clause of 31st March 2023.

1.3 ISSUE

Introduction of Group Consolidation Tax

PRESENT POSITION

Section 129(3) of the Companies Act 2013 requires the preparation of a consolidated financial statements where a company has one or more subsidiaries. Further, countries like United States, France, Australia and New Zealand have adopted a tax consolidation or combined reporting regime. Tax consolidation, or combined reporting, is a regime adopted in the tax or revenue legislation which treats a group of wholly owned or majority-owned companies and other entities as a single entity for tax purposes. The head entity of the group is responsible for all or most of the group's tax obligations (such as paying tax and lodging tax returns). The aim of a tax consolidation regime is to reduce administrative costs for government revenue departments and to improve the quality of tax assessment.

The regime also reduces compliance costs for corporate taxpayers. For companies, consolidating can help reduce taxable profits by having losses in one Group Company reduce profits for another. Assets can be transferred between groups companies without triggering a tax on gain for the company receiving assets, dividends can be paid between group companies without incurring tax liabilities.

PROPOSED CHANGES

It is suggested that on similar lines, the tax consolidation regime may be introduced in India as well.

1.4 ISSUE

Set off of MAT Credit from Tax on Total Income before charging surcharge and education cesses - Section 115JAA.

PRESENT POSITION

There is no ambiguity with regard to the method of computation of tax liability in view of the fact that income tax e-filing return Form ITR 6 allows deduction for credit under Section 115JAA from the gross tax payable excluding surcharge and education cesses and specifically instructs an assessee to compute surcharge and education cess on the tax payable after reduction of MAT Credit brought forward u/s 115JAA. The manner of set off of brought forward MAT Credit is nowhere prescribed in the Income tax Act, 1961. But the issue is squarely covered by the decision of the Hon'ble Allahabad High Court in CIT v Vacment India (2014) 369 ITR 304.

PROPOSED CHANGES

It is suggested that set off of brought forward MAT Credit as per Section 115JAA may be allowed against tax on total income including surcharge and education cesses paid on MAT

2. SALARIES

2.1 ISSUE

Taxable Perquisite to Employees

PRESENT POSITION

Tax is levied on few perquisites like free/subsidized food & gifts provided by employers to employees, if the cost per meal per employee exceeds Rs. 50/- and gift value exceeds Rs.5000 p.a. respectively.

PROPOSED CHANGES

We wish to recommend that, the threshold limit for perquisite value to be taxed in the hands of employees, needs to be revised keeping in view the inflation.

2.2 ISSUE

Standard deduction (with reference to salaried employees) (Section 16 of Income Tax Act)

PRESENT POSITION

Presently the limit of standard deduction is Rs.50,000/-.

PROPOSED CHANGES

It is suggested that the limit of standard deduction should be enhanced from Rs 50,000 to Rs 1,00,000, in view of the inflationary trend.

2.3 ISSUE

Perquisites – valuation of rent free/ concessional accommodation (Sec. 17(2) of Income Tax Act)

PRESENT POSITION

At present the valuation rules for the Non Govt. employees are different from the rule applicable to employees of the Central and State Government. An employee, residing in company owned accommodation, pays license fees and also, House Rent Allowance is not paid to him. This practice puts double burden on employee.

PROPOSED CHANGES

Therefore, the same may please be kept outside the ambit of perquisite valuation within the meaning of Sec. 17(2) of the I.T. Act, 1961 and no housing perquisites may please be levied in such cases.

2.4 ISSUE

Gratuity Exemption under section 10 (10) (iii)

PRESENT POSITION

The Notification u/s 10(10) (iii) is generally issued post notification/ amendment in Section 4(3) of the payment of Gratuity Act 1972 having the effect of raising the limit under clause (ii) of section 10(10) of the Income Tax Act..

PROPOSED CHANGES

Section 10 (10) (iii) should also be aligned with section 10(10) (ii) so that no separate notification is required for the same to avoid unnecessary hardship to the employee.

3. INCOME FROM HOUSE PROPERTY

3.1 ISSUE

Setting off house property loss for salaried employees /non- salaried individual opted for Sec. 115BAC

PRESENT POSITION

Presently Individuals & HUF opting for simplified tax regime u/s 115BAC are not allowed to set-off House Property loss against other heads of Income.

PROPOSED CHANGES

It is proposed that an exception may please be provided u/s 115BAC to allow individual salaried employee/non-salaried person to set off House Property loss (self-occupied) against other heads of Income. This will help to promote Govt's vision- "Housing for All".

3.2 ISSUE

Deduction i.r.t. interest on borrowed capital under Income from House Property (Section 24(b) of Income Tax Act)

PRESENT POSITION

Presently interest on borrowed capital for acquiring or constructing house property (self-occupied) is deductible up to Rs 2,00,000 if certain conditions are satisfied. W.e.f. AY 2020-21, 2 no. of houses are allowed to be considered as self-occupied house property for the purpose of determining income under the head "Income from House Property". However, limit of deduction u/s. 24(b) has been kept as same i.e. Rs. 2,00,000.

PROPOSED CHANGES

It is proposed/ suggested that the limit of deduction should be increased from Rs 2,00,000 to Rs 4,00,000 (i.e. for two no. houses) to encourage the individuals to purchase / construct their own house property.

4. PROFITS AND GAINS OF BUSINESS OR PROFESSION

4.1 ISSUE:

Depreciation on Goodwill Section 32

PRESENT POSITION

As per existing Section 2(11) or Section 32 of Income Tax Act 1961, Goodwill of business or Profession has not been specifically provided as a Depreciable asset. Only after the decision of the Supreme Court in the Case of Smiff Securities Limited (2012, 348 ITR 302 (SC), it was considered as a Depreciable Asset under Section 32 of Income Tax Act 1961. Finance Act 2021 amended clause 11 of Section 2 of the Act to provide that Block of Assets shall not include goodwill of a business or profession.

PROPOSED CHANGES

Keeping in view of SC judgment and to maintain status-quo, it needs to be reinstated to encourage the process of merger and acquisition of the company.

4.2 ISSUE

Availability of deduction in the year of withdrawal from Site Restoration Fund (SRF) account for specified purposes under new tax regime. (Section 33ABA of Income Tax Act)

PRESENT POSITION

Presently as per the provisions of section 33ABA of the Act, any amount deposited in a separate and dedicated account, maintained in accordance with SRF Scheme, 1999, (including interest accrued thereon) is allowed as deduction in the year in which such deposit (including interest accrued as deemed deposit) is made. Further, the aforesaid section, inter-alia, provides that expenditure incurred for the purposes specified in the SRF Scheme, by withdrawing amount from the SRF account, shall not be allowed as deduction in the year in which such expenditure is incurred. Deduction u/s 33ABA is not available under the new tax regime u/s 115BAA of the Act.

PROPOSED CHANGES

Under the Income-tax Act, deduction is allowable in respect of any expenditure incurred wholly and exclusively for the purpose of business. Thus, if under the new tax regime, deduction is not available at the time of depositing the sum in an account maintained under SRF Scheme (including interest credited thereon), the same should be available in the year in which the expenditure is incurred for the purposes specified in SRF Scheme.

4.3 ISSUE:

Restoration of 200% weighted deduction for R&D expenses (Section 35(2AB) of Income Tax Act).

PRESENT POSITION

Under section 35(AB) weighted average deduction @ 200% was allowed on expenditure incurred on research and development activities. Wef AY 2021-22 weighted average deduction is reduced to 100%.

PROPOSED CHANGES

It is suggested to restore the weighted average deduction of 200% on R&D expenditures as allowed earlier even under new regime to promote innovation in technology through research activities and to support Make in India initiative.

4.4 ISSUE

Section 35 AD of the Income Tax Act, 1961

PRESENT POSITION

The deduction under Section 35 AD was provided as an Investment linked incentives to encourage some of the specified businesses which were critical for the Indian Economy. Considering the ongoing COVID-19 Pandemic situation, the specific business of setting up and operating of Temperature Controlled Warehouse would boost the "AtmaNirbhar Bharat Campaign" for making India self sufficient and for the storage and distribution of COVID-19 vaccines.

PROPOSED CHANGES

It is proposed that the deduction under Section 35AD may be allowed to the Assesses who are opting for lower tax rate regime under Section 115BAA. This would have far reaching consequences on the economy and also serve as a true service to the humanity by the Corporates operating in such businesses.

4.5 ISSUE

Increase in Limits for employer contribution to NPS Account of Employees from 10% to 14%

PRESENT POSITION

As per Section 36(1) (iva), amount contributed by employer to NPS Account of employee to the extent it does not exceed ten per cent of the salary; is allowed as a deduction to the employer. In case contribution exceeds the said threshold, it results in double taxation, i.e., the excess amount is neither available as a business expenditure to the employer nor is it allowed as a deduction from Gross Total Income to the employee. For Central Government employees,

employer's Contribution to their NPS Account is deductible up-to 14% percent of salary under Section 80CCD(2).

PROPOSED CHANGES

It is requested that Section 36(1)(iva) be amended to increase the limit for employer contribution to pension scheme, as referred to in section 80CCD, from the current 10% per cent of the salary of the employee to 14% percent of salary. Also, the amount of deduction admissible under Section 80CCD(2)(b) for employer's contribution to NPS Account be enhanced from the current 10% per cent of the salary of the employee to 14% percent of salary.

4.6 ISSUE

Clarification that loss on Sale of Oil bonds is a revenue loss (Section 37 (1) of Income Tax Act)

PRESENT POSITION

As per the Government's directives petrol, diesel, SKO through Public Distribution System (PDS) and LPG for domestic use are sold to the consumers at the price fixed by the Govt. of India. The Oil binds have been issued by GOI to compensate the operating losses. These bonds have long redemption period ranging from 7 to 17 years on special rates of interest. Loss is incurred at the time of sale of such GOI special Bonds and the same is claimed as revenue loss. However, the Assessing authority is of the view that loss on sale of GOI special Oil Bonds is capital loss as the same is treated as sale of investment.

PROPOSED CHANGES

It is suggested that Section 37(1) needs to be suitably amended to provide deduction for business loss arising from sale of such bonds since these bonds are based on the scheme framed by GOI. Further, had GOI given cash compensation in time, the borrowings would have been reduced to the great extent. GOI Special Bonds are sold primarily to meet the working capital and/ or curb the borrowings.

4.7 ISSUE

Deduction for CSR activities (Section 37(1) of Income Tax Act)

PRESENT POSITION

At present expenditure debited in the books of accounts on a/c of CSR activities is not allowed for the purpose of Income Tax.

PROPOSED CHANGES

It is suggested that in the case of PSUs / Govt. Companies, the expenditure debited in the books of accounts should be fully allowed as business expenditure u/s 37(1), in order to encourage CSR activities.

4.8 ISSUE

Allowability of Prior Period Expenses under Section 37 (1) of Income Tax Act

PRESENT POSITION

Presently prior period expenses are not allowed as business expenditure in the year in which it is paid.

PROPOSED CHANGES

It is suggested that suitable provision be inserted in the Act whereby prior period expenses are allowed as deduction in the current year under section 37(1) of the Income Tax Act, 1961. A limit (say not exceeding 1% of the turnover) can be prescribed for such expenditure. It will obviate administrative difficulties in claiming the deduction in respect of previous years and rectifications proceedings etc. There will not be any revenue loss to the government from this clarification, since corporate tax rates over a period of years have remained more or less the same.

4.9 ISSUE

Section 42 - Deduction in case of business of prospecting of mineral oil

PRESENT POSITION

Under section 42(1)(a) of the Income Tax Act, deduction for expenditure by way of infructuous or abortive exploration expenses is available in respect of any area surrendered prior to the beginning of commercial production. Further, on reading of section 42 along with the Model Production Sharing Contract, it is not clear whether tax payer is eligible to claim deduction for exploration expenses (including survey expenditure) and drilling expense in the year of incurrence against other business income even though no commercial production has been started.

PROPOSED CHANGES

It is suggested that considering the genuine hardship of the assessee, an explanation may be inserted in section 42(1)(a) that an intimation by the assessee for surrender of area to appropriate authority will be construed as area surrendered for allowing the deduction of infructuous or abortive exploration expenses. It may also be clarified by inserting proviso in Section 42 that taxpayer will be eligible to claim deduction for exploration drilling expenses (including survey expenditure) in the year of incurrence against other business income irrespective of fact that commercial production has started or not.

4.10 ISSUE

Allowability of Leave Encashment under Section 43B of Income Tax Act

PRESENT POSITION

Section 43 B of the Act allows certain expenditure only upon payment. Primarily, taxes and welfare expenditure on employees fall under this section. Effective 01/04/2002, a new clause (f) was inserted to permit deduction of any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee, only upon payment. Large Corporates set up dedicated funds for 'Leave Encashment' and basis the actuarial valuation, contributes an amount equivalent to the liability to the said fund. In such cases, employer no longer retains the said funds in the business operations. However, Assessing Officers deny the expenditure on the pretext of 43B (f) as contribution to the fund is not considered by them to be equivalent to payment to employees. In this manner, a genuine business expenditure gets disallowed and the claim of expenditure is deferred.

PROPOSED CHANGES

To mitigate the hardship, it is suggested that an Explanation be inserted in Section 43B to the effect that payment to the fund would be equivalent to payment to employees.

4.11 ISSUE

Treatment of Profit from Derivative Transactions.

PRESENT POSITION

The Finance Act, 2006 amended the definition of speculative transaction u/s. 43(5) to treat the transactions of derivatives (including commodity derivatives used as hedging contract as per proviso (a) of section 43(5)) on the recognized stock exchange as normal business transaction. However, there is no clarity as to whether the profit/loss made from the derivatives transactions should be treated as Capital Gain or a Business Income. This creates number of issues and invites litigations.

PROPOSED CHANGES

It is, therefore, suggested that the clarification should be issued to the effect that the profit/loss from the Derivative Transactions should be treated in the same manner as any other securities traded in the recognized stock exchanges and accordingly would be chargeable to Capital Gain Tax or Business Income based on the well-accepted principles.

4.12 ISSUE

Profits & gains of shipping business of non-resident:

PRESENT POSITION

Section 44B (1) deems seven and a half percent of amounts mentioned in section 44B(2) as profits & gains of non-resident engaged in the business of operation of ships. In the case of carriage of passengers, livestock, mail or goods shipped at any port outside India (e.g. crude oil shipped at a port in Saudi Arabia and received at a port in India i.e. import into India), the non-

resident is taxable only on the amounts received or deemed to be received in India as per section 44B(2)(ii). In case the freight for import is remitted vide Telegraphic Transfer to the account of non-resident shipping company, the same is not received in India nor is deemed to be received in India as per section 7 of the Act. Further, the CBDT has also clarified the non-taxability of such transactions in India vide Instruction No. 1934 dated 14th February 1996.

However, the Assessing Officer's are treating the freight amounts on account of import, received by the non-resident outside India vide Telegraphic Transfer, as taxable in India and liable to TDS u/s. 195 and consequently disallowing the freight or/and demurrage charges u/s. 40(a)(i) in the hands of the refinery for alleged non deduction of tax at source u/s. 195 of the Act.

PROPOSED CHANGES

It is suggested that an explanation be inserted in section 44B of the Act clarifying that for the purpose of section 44B(2)(ii) where the amounts specified are received by the non-resident by way of Telegraphic Transfer or SWIFT etc., in his account outside India, then the same is not received or not deemed to be received in India by the non-resident shipping company, with retrospective effect from 01.04.1976.

4.13 ISSUE

Allowance for investment in new plant & machinery under section Section 32AC of the Income Tax Act

PRESENT POSITION

Section 32AC of the Income Tax Act provided for an allowance of 15% on new assets installed during the year upto AY 2017-18. This provided as incentive for new capital formation and as an impetus to the Make in India initiative

PROPOSED CHANGES

It is suggested that the benefit u/s. 32AC be provided for another five years i.e. from AY 2023-24.

4.14 ISSUE

Lower tax rates to be extended to Manufacturing Companies with substantial expansion

PRESENT POSITION

In line with the Hon‟ble Prime Minister‟s call for qualitative and sustainable industrial growth in the form of "Make in India", there is a strong need to encourage and incentivise the immense transformational capacity of corporates in innovating business models that can synergistically deliver economic and social value simultaneously.

PROPOSED CHANGES

Hence, benefit available under section 32AD, 32AC and 80IB(9) which available only to new manufacturing companies may be extended to existing manufacturing companies doing substantial capacity additions.

4.15 ISSUE

Clarification on provision of section 36(1)(va) Employees' Contribution towards Staff Welfare Schemes.

PRESENT POSITION

Deduction in respect of any sum received by the taxpayer as contribution from his employees towards any welfare fund of such employees is allowed only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date. Due date for the purpose of this section means the due date of relevant act. If employees contribution towards provident fund is credited by the employer after due date, it is not deductible under section 36(1)(va), even if it is credited/paid on or before the due date of submission of return on or before due date of submission of return of income u/s 139(1).

PROPOSED CHANGES

Referring to some of the rulings where the due date for payment of employees contribution of provident fund under section 36(1)(va) has been treated same as contemplated under section 43B, therefore, payment made before due date of filing return has been treated allowable. Hence, it is suggested to give clarity of law in the particular section for uniformity in the deduction under this section.

4.16 ISSUE

Section 43A - Exchange fluctuation loss due to sharp fall in Rupee value.

PRESENT POSITION

Section 43A was inserted in the Income-tax Act, 1961 by Finance (No. 2) Act 1967, which permitted Capitalization of Foreign Exchange Fluctuation Loss in the borrowing used for acquisition of assets outside India. The exchange fluctuation loss on borrowings used for domestically acquired assets is not permitted to be capitalized for tax purposes. Over the years, Rupee has depreciated significantly against the US $ severely impacting the industry particularly those who have exposure to External Commercial Borrowings (ECBs) and Foreign Currency Convertible Bonds (FCCBs).

PROPOSED CHANGES

It is suggested that Section 43A be amended to allow Capitalization of such foreign exchange loss even for domestically acquired asset.

4.17 ISSUE

Section 35D Capital raising

PRESENT POSITION

Expenses incurred for raising capital are being treated as capital in nature and no deduction is allowed in tax assessment. Section 35D provides for deduction in respect of some of the expenses, over a period of five years, subject to conditions and limits. Raising capital is necessary activity for carrying out the business activity. Not allowing deduction of expenses for raising capital increases cost of carrying out the business and adversely affects the competitiveness of the business.

PROPOSED CHANGES

Section 35D should be amended to allow deduction for all expenses incurred by an assessee for raising capital in five equal installments over a period of five years.

4.18 ISSUE

Deduction for Provision for Doubtful Debts - Sec 36(1)(viia)

PRESENT POSITION

Under the provisions of sec. 36(1)(viia) of the Income Tax Act, provision is allowed to the extent of 8.5% of the total income and an amount not exceeding 10% of the aggregate average advances made by the Rural Branches of the Bank computed in the prescribed manner.

PROPOSED CHANGES

Banks should be allowed the deduction of full amount of provision of NPAs as per RBI guidelines without any cap. Also, the same may be allowed while calculating book profits under Section 115JB.

4.19ISSUE

Non-applicability of Minimum Alternate Tax on General Life Insurance Companies

PRESENT POSITION

The Finance Act 2012 has introduced sub-section 5A (with retrospective effect from 01.04.2001) under section 115JB which reads as under:

> *"The provision of this section shall not apply to any income accruing or arising to a company from life insurance business referred to in section 115B."*

PROPOSED CHANGES

It is requested that the benefit of non-applicability of MAT be provided to general insurance companies also at par with life insurance companies.General insurance companies are required to cover the risks pertaining to various social and rural sector businesses such as Motor TP, Universal Health insurance, RashtriyaSwastyaBimaYojana (and Agriculture insurance from FY 2012-13) etc., which has resulted in the companies suffering substantial underwriting losses over the past many years, and thus, the exemption from MAT provided to life insurance companies should be extended to general insurance companies as all the products sold by us serve a social cause, like in the case of life insurance companies.

5. INCOME FROM OTHER SOURCES

5.1 ISSUE

Dividend income received by persons other than company and non- resident.(Section 56 of Income Tax Act)

PRESENT POSITION

Since Dividend Distribution Tax has been abolished w.e.f. 01.4.2020, now the recipient is liable to pay tax on Dividend Income. Domestic companies can claim deduction i.r.t. dividend income to the extent of dividend distributed by it in accordance with Sec. 80M of the I.T. Act (w.e.f. 01.04.2020). However, no exemption is available to other class of assesses.

PROPOSED CHANGES

It is suggested to provide some threshold limit in the hands of the resident individuals that dividend of Rs 1,00,000/- may be treated as exempt for the persons other than companies and Non resident and dividend received in excess of Rs 1,00,000 may be taxable @10%.

5.2 ISSUE

Restriction of deduction against income u/s 56 of the Act

PRESENT POSITION

Pursuant to discontinuation of tax on distribution of dividend of companies and tax on distribution of income of Mutual Funds, and consequent loss of exemption of such income in the hands of the recipients, some income other than which is taxable as Business Income may be taxable under the head Income From Other Sources u/s 56 of the Act.

The Finance Act, 2020 has inserted a new proviso in section 57 of the Act, restricting deduction from such income to only 25% of interest expense.

PROPOSED CHANGES

The provisions of section 57 of the Act may suitably be amended to allow any expenditure including collection charges, interest etc. incurred for earning such income taxable under the head Income From Other Sources with ceiling of the actual income, not restricting to any arbitrary percentage. It would remove disallowance of actual expenditure based on an arbitrary percentage and follows matching of income with expenditure, which creates unnecessary restrictions in business operations and ultimately adds to the costs.

5.3 ISSUE

Relaxation from applicability of the provisions of deemed Gift Income u/s 56(2)(x) of the Income Tax Act to JVs/associate companies in line with subsidiary companies.

PRESENT POSITION

The Finance Act, 2017 has introduced section 56(2)(x), under which, any sum of money or any property which is received without consideration or for inadequate consideration (in excess of the specified limit of Rs.50,000) by any person is chargeable to income-tax under the head "Income from other sources" subject to certain exceptions. Further, Finance Act, 2018 has exempted transactions between holding & whollyowned Indian Subsidiaries from purview of this section.

PROPOSED CHANGES

It is requested to exempt transaction with foreign subsidiaries, domestic subsidiaries (other than 100% subsidiaries), Joint ventures and Associates from purview of section 56(2)(x) in line with exemption to transaction between holding company and 100% subsidiary via Finance Act 2018.

5.4 ISSUE

Admissibility of Interest paid under Income-Tax Act, 1961

PRESENT POSITION

Presently, interest paid by the Government to an assessee is chargeable to tax. However, interest paid by the assessee to the Government under various sections is not allowed as deduction while computing the total income. Interest paid by the assessee is for the use of money by him and is compensatory in nature.

PROPOSED CHANGES

Interest paid by the assessees to the Government under various sections of the Income-tax Act should be allowed as deduction in computing total income. If the assessee does not have business income, interest should be allowed under the head `Income from other Sources'. Alternatively, the interest received by the assessee on refund should be exempt from tax.

6. EXEMPTIONS / DEDUCTIONS

6.1 ISSUE

Royalty/ Fees for Technical Services (Section 10 (6C) of Income Tax Act)

PRESENT POSITION

Income Tax Act provides for tax exemption for Royalty/ Fee for Technical Services received by foreign company pursuant to an agreement entered with Govt. of India for providing services (in or outside India) in projects connected with security of India, subject to a notification in the Official Gazette.

PROPOSED CHANGES

Extant Section be amended to clarify that exemption under Sec 10(6C) of IT Act shall be available in respect of agreements between foreign company and Defence PSUs, for providing services under projects connected with security of India.

6.2 ISSUE

Employees Contribution to Recognized Provident Fund

PRESENT POSITION

Finance Act 2021 had amended Section 10(11) & Section 10(12) by inserting new clause that if the amount of employee's contribution exceeds Rs. 2.50 Lacs, then interest on excess contribution shall be taxable in the hands of the employee.

PROPOSED CHANGES

It is understood that the purpose of this amendment was to discourage voluntary employee's contribution, however this limit of Rs.2.50 lacs falls short for mandatory 12% contribution for certain higher level govt./PSU sector employees. Therefore, it is suggested that the amount of Rs. 2.50 Lacs may be increased to Rs. 5.00 Lacs.

6.3 ISSUE

Exemption in respect of leave encashment (Section 10 (10AA) (ii) of Income Tax Act)

PRESENT POSITION

Presently during the tenure of service, the leave encashment is taxable. Moreover, leave encashment after retirement, whether such retirement is on account of superannuation or otherwise is exempt only up to the specified limit i.e. Rs. 3,00,000/-. However, in the case of central /state government employees there is no limit on exemption in r/o leave encashment at the time of retirement /superannuation or otherwise u/s 10(10AA)(ii) of the I.T.Act, 1961.

PROPOSED CHANGES

It is proposed that there should also not be any ceiling on the exemption limit for leave encashment in the case of the PSU Employees like in the case of central /state government employees as such this will eliminate disparity between Govt. Employees and PSU employees. Further, encashment during service may also be considered to be exempt.

6.4 ISSUE

Covid Treatment Expenses (Section 10 of Income Tax Act)

PRESENT POSITION

Due to Covid, CBDT introduced a provision wherein any expenses which are incurred for covid treatment shall be exempt when reimbursed by employer or any other individuals. However if the individual incurred expenditure from their own pocket there was no deduction provided to them.

PROPOSED CHANGES

Considering this pandemic as an unforeseen event many individuals savings have eroded, Accordingly the Government should introduce a deduction which can be adjusted against the future earnings of the individual to benefit the individuals and this will help in recouping the savings lost to the individuals.

6.5 ISSUE

Valuation of LTC (Section 10(5) of Income Tax Act)

PRESENT POSITION

Presently LTC for going outside India is taxable.

PROPOSED CHANGES

It is suggested that LTC for going outside India may please also be exempted from income tax as such it will boost spending.

6.6 ISSUE

Various Allowances to Employee (Section 10 (14) of Income Tax Act)

PRESENT POSITION

The Exemption limits for various allowances (eg: Children's Education Allowance, Hostel Allowance etc.) mentioned in Rule 2BB r.w.s. 10(14) was fixed in 1995.

PROPOSED CHANGES

Keeping in view of inflation & cost escalation, the same may please be suitably revised.

6.7 ISSUE

Deduction from Income tax on profits from new power generating units under section 80-IA of Income Tax Act, 1961.

PRESENT POSITION

This section provides deduction on income tax in profits to an Industrial Undertaking set up in any part of India for generation or generation & distribution of power, if it began to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2017.Deduction under section 80-IA is available for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking begins the generation of power.

PROPOSED CHANGES

Presently, many hydro power projects are at various stages of implementation. The implementation and gestation period for these capital intensive projects is longer than other non-conventional power generating units. Hydro projects are highly desirable as alternative to fossil fuel power and also for grid stability issues with higher solar and wind power installations. It is therefore proposed to extend the period of the said deduction u/s 80-IA till FY 2025 or it will be even better not to fix any ending period for making the long term decision process more investor friendly. It is proposed that this section be amended to provide deduction for any fifteen consecutive assessment years out of twenty years to provide flexibility to power entities.

6.8 ISSUE

Deduction U/S 80C.

PRESENT POSITION

The present limit is Rs 1.50 lakh..

PROPOSED CHANGES

It is suggested that present limit may please be increased to Rs.3 Lakhs. The limit should be increased in view of the inflationary trend and also this will boost investment/ spending.

6.9 ISSUE

Extension of date of sanction of loan for affordable residential house property U/s 80EEA.

PRESENT POSITION

Finance Act 2021 amended the due date for sanctioning loan from 31.03.2021 to 31.03.2022 for obtaining additional benefit of Rs.1.50 Lacs under section 80EEA of Income Tax Act 1961.

PROPOSED CHANGES

In order to encourage real estate sector of country, the above benefit should be extended up to 31.03.2025.

6.10 ISSUE

Deduction of Donation Paid under Section 80G of Income Tax Act

PRESENT POSITION

Presently donation is not allowed as a deduction u/s 80G in case the company has opted for New Regime.

PROPOSED CHANGES

It is proposed that donation may be eligible for deduction U/s 80G under New regime to ensure that the companies will continue to make contributions for the benefit of the country in future like relief funds etc.

6.11 ISSUE

Deduction U/S 80TTA as regard to Interest Income

PRESENT POSITION

Presently deduction U/S 80TTA is limited to Rs 10,000 in respect of Interest on Savings Account.

PROPOSED CHANGES

It is suggested that the deduction in respect of any income by way of interest on deposits in a savings account should be extended to time deposits also u/s 80TTA. Further, the present limit of Rs. 10,000 may please be increased to Rs. 50,000, keeping in view of the inflationary trend and also this will boost spending.

7. TDS / TCS PROVISIONS

7.1 ISSUE

Grossing- up of income of the non residents for TDS and assessment purposes. (Section 195A)

PRESENT POSITION

Section 195A of the Act requires multi-stage grossing up of income for TDS purposes if tax on the income of the non- resident payee is to be borne by the payer. Hon'ble Uttarakhand High Court held in favour of only single stage grossing up and the Hon'ble Supreme Court has dismissed Special Leave Petition filed by the Revenue against the Hon'ble High Court's judgment.Thus, the issue has attained the finality.

PROPOSED CHANGES

Suitable amendment may be made in section 195A of the Actso as to provide that where income of the non-resident is already grossed-up under any other section, the same would be subject to only single stage grossing-up for TDS purposes also.

7.2 ISSUE

TDS on Transmission Charges etc. (Section 194J/194I/194C of the Income Tax Act)

PRESENT POSITION

Various customers/ Income Tax Dept. are interpreting that Transmission of electricity is a technical service and are being required to deduct TDS u/s 194J of the Income Tax Act at 10% and few other are interpreting it as rent u/s 194I for deduction of TDS @10%. Also, various customers are deducting tax u/s 194C as well. Hon'ble Supreme Court upheld the judgement of Mumbai High Court case no 336/2013, stating that TDS on transmission charges should not be deducted.

PROPOSED CHANGES

It is suggested that clarification may be issued so that TDS is not required to be deducted on transmission charges as the same is not covered under any section of Income Tax Act. Otherwise, a separate exemption from TDS may be provided for amount collected and distributed as transmission charges on behalf of licensees as no loss for revenue since the amount being given up as TDS would be recouped from increased advance tax receipts from the licensees.

7.3 ISSUE

TDS on Transportation payment under section 194C.

PRESENT POSITION

There will not be any deduction of TDS under section 194C if deductee provides a self-deduction that he owns or likely to own ten or less goods carriage at any time during the previous year. Based on the declaration, deductor provides the exemption from TDS u/s 194C towards payment of transaction. Where transportation of goods across India is being carried out by transport contractors, the assessee receives the thousands of self-declaration (mainly from Proprietor/HUF) from transporters, keeping the record of the same and providing the exemption from TDS through system becomes a challenging and tough task.

PROPOSED CHANGES

It is requested that the above provision is resulting into unnecessary huge compliance. Exemption from TDS deduction may be provided to all as was available till 31st March 2015 on the condition of furnishing of the PAN by contractor to deductor. Condition of obtaining the self-declaration form, from the deductee and updating every time in ERP system is a very cumbersome & time consuming process.

7.4 ISSUE

Reduction of TDS rate u/s 194LC

PRESENT POSITION

TDS u/s 194LC @5% is to be deducted in case of payment of interest by an assessee in respect of money borrowed in foreign currency under a loan agreement or by way of issue of long-term bonds (including long-term infrastructure bond). This TDS is to be paid as the interest payment is done on net of tax basis. In the Finance Act 2020, TDS u/s 194LC was reduced from 5% to 4% in case where interest is payable in respect of Long-term Bond or Rupee Denominated Bond listed on recognized stock exchange located in IFSC.

PROPOSED CHANGES

It is requested to please reduce the rate from 5% to 3% for all types of borrowings covered u/s 194LC to have a uniform single rate.

7.5 ISSUE

Credit of Tax Deducted at Source on Advance/Stage payment (Section 198 & 199 of Income Tax Act)

PRESENT POSITION

Tax Deducted at Source (TDS) deducted by the Customer at the time of payment of advances can be claimed as tax credit only in the year in which the related revenue is offered for Tax as per provisions under rule 37BA of Income Tax Rules, 1962. In some industries, payments towards the contract price are received in stages in the nature of advance from customer, after deduction of TDS @ 2%. However, due to long execution period, the revenue could be offered in percentage of completion method as per the relevant Accounting Standard and till such time TDS credit remain un-utilised. This results in substantial blockage of working capital till the period the relevant revenue is offered to tax. This is in contradiction to the basic principal of nature of justice. On the one hand Tax is compulsorily deducted and on the other hand TDS Credit is denied.

PROPOSED CHANGES

It is suggested that TDS deducted in a financial year may be permitted to be adjusted as advance tax for that year as it will reduce impact on cash flow, working capital and cost of output to the company.

7.6 ISSUE:

Rationalizing the provisions dealing with TDS by e- commerce operators. (Section 194-O of Income Tax Act)

PRESENT POSITION

Presently as per the provisions of section. 194-O of the Act, where sale of goods or provision of services is facilitated by an e-commerce operator through its digital or electronic facility or platform, the e-commerce operator is required to deduct TDS on the amount of sale or services at the time of crediting the same to the account of e-commerce participant (i.e., the seller) or at the time of payment thereof, whichever is earlier. Explanation to the aforesaid section clarifies that, any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for sale of goods or provision of services facilitated by e-commerce operator, shall be deemed to be the amount credited or paid by e-commerce operator to the e-commerce participant and shall be includedin the gross amount of such sale and services for the purpose of deduction of TDS under the above section. The instant issue pertains to the non-availability of ample clarity on various aspects arising from theaforesaid provisions.

PROPOSED CHANGES

The provisions of section 194-O may be suitably amended to clarify as to when sale of goods or provision of services would be construed to have been"facilitated" by an e-commerce operator so as to cover withinthe ambit of TDS. Such a clarification may have a specific reference of the cases where e-auction platform is used only for the purpose of identifying the prospective buyers and sale is effected outside the platform.

7.7 ISSUE:

TDS on Purchase of Goods u/s 194Q of Income Tax Act 1961

PRESENT POSITION

Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding Rs.50 Lacs in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.10 percent of such sum exceeding Rs.50 Lacs as income-tax. Further, there is another similar provision for sellers i.e. Section 206C (1H), however it has been overridden by the provisions of Section 194Q of Income Tax Act 1961.

PROPOSED CHANGES

In order to reduce litigation, provisions of Section 206(1H) should be replaced with the Section 194Q & threshold limit of Rs.50 Lacs should be replaced with Rs.2 Crs for better compliance with tax provisions. Co-existence of both provisions of TDS & TCS on the purchase/sales transaction is resulting in increased compliance burden, undue reconciliation issues between buyer and seller and may lead to both, deduction and collection of tax at source in case of lack of TDS details, especially in the case of Big Corporates /PSUs dealing in Capital Goods / Infrastructure projects having long term contacts comprising numerous transactions of sale / purchase.

7.8 ISSUE

Deduction of TDS & collection of TCS at higher rates in case of non-filers of Income Tax Return

(Section 206AB & 206CCA of Income Tax Act)

PRESENT POSITION

W.e.f. 01.07.2021, as per Sec. 206AB & 206CCA, a higher rate of TDS and TCS respectively (twice the applicable rate or 5 per cent whichever is higher) is applicable in case of deductees which are non-filers of income tax returns.

PROPOSED CHANGES

It is suggested that these provisions may please be withdrawn for the sake of ease of compliance. Compliance of these sections leads to extra burden on the deductor / collector of tax at source who is required to verify the return filing status of every deductee or collectee. Although, a compliance check utility is made available by Income Tax Department in this regard, however, in case of any discrepancy in the data, there will be non-compliance implications on the deductor/collector as applicable.

7.9 ISSUE

Clarification regarding non applicability of TDS on Indirect taxes like Excise duty /VAT/CST like GST if charged separately in invoice (Section 194Q of the Income Tax Act)

PRESENT POSITION

Finance Act 2021, has inserted a new provision of Tax Deduction at Source under section 194Q which provides for TDS @ 0.1% of any sum paid to any resident for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year. Clarification was issued that TDS is not applicable on GST, However since the major products of the Oil Companies ie. MS, HSD and ATF are outside the ambit of GST and Excise Duty/VAT/CST is levied on the same

PROPOSED CHANGES

It is requested to please provide a clarification on similar grounds for exclusion of Excise Duty, VAT and CST to have consistency in the Act and also better clarity.

7.10 ISSUE:

TCS Return-removing of ambiguity and implausible compliance Form 27EQ

PRESENT POSITION

The TCS Return requires every case where TCS is required to be collected to be reported, However in case the same is not required to be collected where TDS has been deducted – then the challan number and date of deposit of TDS is required to be mentioned. This makes it impossible for any assessee to report these transactions as, collecting these details from all the customers will be practically impossible.

PROPOSED CHANGES

Hence it is suggested that this requirement shall be done away with to reduce unnecessary compliance burden

7.11 ISSUE:

TDS from provisions/liability created in the accounts (Chapter XVII B of Income Tax Act)

PRESENT POSITION

Presently as per the provisions relating to deduction of tax at source, the assessee is required to deduct tax even on the amount for which provisions has been made or liability has been created in the accounts. Normally, the provision in the accounts is made on the basis of reliable estimate. The actual liability may differ from the amount provided in the accounts.

PROPOSED CHANGES

It is suggested that the TDS should be deducted only at the time when the amount becomes payable on receipt of bill/invoice, which shall have positive implication for the Corporate by bring tax certainty and shall reduce litigation.

7.12 ISSUE

Rationalisation of TDS/TCS Provisions

PRESENT POSITION

TDS is very complicated compliance which needs professional guidance. However, small companies tend to default in complying TDS/TCS provisions due to lack of professional expertise available to them.

PROPOSED CHANGES

It is ssuggested that TDS/TCS provisions should be applicable to the entities whose turnover exceeds Rs 10 crores in previous year so as to keep small time payees out of bracket of TDS/TCS, so that the time and money involved in the compliance can be reduced. Waiving the condition for issuance of TDS certificate to vendors may also be considered in the light of strengthening of form 26AS.

8. FILING OF RETURN & ASSESSMENT / APPEAL PROCEEDINGS

8.1 ISSUE

ITR FORM – 6- Simplification of Reporting requirement in ITR in line with the Schedule III to Companies Act

PRESENT POSITION

The preparation and presentation of Financial Statements in case of Companies are governed by Schedule III of the Companies Act, 2013. The relevant ITR for Companies is ITR 6. ITR 6 mandates companies to fill Manufacturing, Trading account and P&L Account. As there is no statutory requirement to prepare and present Manufacturing and Trading Account under the Companies Act, there is an anomaly in reporting requirement.

PROPOSED CHANGES

It is recommended to notify ITR Form – 6 in sync with Schedule III of the Companies Act, 2013 in order to ease of the compliance.

8.2 ISSUE

Excel Utility for Return Filing (Section 139 of Income Tax Act)

PRESENT POSITION

Up to AY 2020-21, Excel based utility was available for all ITR Forms to facilitate filing of Income Tax Returns. However, for AY 2021-22, till date, Excel Utility of only ITR-5 & ITR-6 is available and all other forms are to be filled in online JSON Format.

PROPOSED CHANGES

It is suggested to provide Excel Utility for all ITR Forms (i.e. ITR-1 to ITR 7) as Excel based utility is more user-friendly and facilitate filing of Returns by prefilling data in offline mode. This reduces errors and omissions at the time of filing of Returns.

8.3 ISSUE:

Short TDS Credit-Faceless Assessment (Section 144B of Income Tax Act)

PRESENT POSITION

It is observed that Short TDS credit granted in the Faceless Assessment Order without considering the TDS credit given as per 26AS statement / Intimation Order

PROPOSED CHANGES

It is suggested that TDS credit should be given in line with the 26AS statement, as already given as per Intimation order/26AS statement. It should not be reduced in the regular Assessment order to avoid undue demand creation and also to reduce litigation on this issue.

8.4 ISSUE

Personal Hearing through VC- Faceless Assessment (Section 144B(7)(viii) of Income Tax Act)

PRESENT POSITION

The CCIT or Director General of RFAC may at his discretion approve the personal hearing through VC requested by the assessee.

PROPOSED CHANGES

It is suggested that Wherever Personal hearing through VC is requested by the assessee, the same may please be granted without any discretion and accordingly suitable amendment may please be made, which will help in resolving the issues faced during faceless Assessment proceedings and also to avoid any wrong addition. Further, it shall provide natural justice to the assessee, thereby reducing litigation on this account

8.5 ISSUE

Faceless Assessments

PRESENT POSITION

Number of Attachments and size per attachment is the major constraint while uploading details. Number of errors are thrown by system, which includes error in file name, repeat document (some reply needs repetitive attachments). The attachments accepted are only in PDF, Excel, CSV format. Zip files and videos should also be accepted, to enable better explanation of queries.

PROPOSED CHANGES

It is suggested that suitable upgradations may be made in software so as to facilitate the assesee.

8.6 ISSUE:

Reopening of assessment (Section 147/ 148 of Income Tax Act)

PRESENT POSITION

At present the income tax act provides for re-opening of assessment even in such cases where the regular assessment has been completed. Further, even after completion of reopened assessment, the assessing officer can again reopen the already reopened assessment. Hence, there is no limit in reopening of assessments.

PROPOSED CHANGES

It is suggested that provision should be made in the Income Tax Act that where the assessment has already been completed u/s 143(3), reopening of assessment should be allowed only once, which shall have positive implication for the Corporates by bring tax certainty and shall reduce litigation.

8.7 ISSUE

Providing consequences of non-disposal of rectification applications. (Section 154 of Income Tax Act)

PRESENT POSITION

Section 154(7) of the Actspecifies a time limit of four years for making amendments toorders for rectification ofmistakes apparent from records. This time limit is reckoned from the end of the financial year in which the order sought to be amended was passed. Further, under the provisions of sub-section (8) of section 154, an application made by the assessee under this section would be disposed of within a period of six months. However, the consequences that would arise if the application so madeis not disposed of within six months have not been spelt out.

PROPOSED CHANGES

It is suggested that sub-section (8) of section 154 may also provide that, if the income-tax authority does not dispose of the application made to it within six months, the application shall be deemed to have been allowed as it is seen that, in a large number of cases, the assessing officers simply do not dispose of an assessee's application under section 154 for years together, which results in loss to the assessee. Providing consequences for non- disposal of applications within the specified period would ensure promptness in disposal of applications under section 154and avoid undue harassment to the taxpayers

8.8 ISSUE

Rationalizing the provisions relating to filing of appeals against orders u/s 195(2). Section 248 of Income Tax Act

PRESENT POSITION

As per the provisions of section 248 of the Act, where under an agreement or arrangement, TDS applicable on any income (other than interest) payable to a non- resident is borne by the payer and, the payer claims that no TDS is required to be deducted from the income so payable as against the TDS directed in the order issued u/s. 195(2), then an appeal may be filed by the payer against such order u/s. 195(2) claiming that no TDS was deductible on such income.

PROPOSED CHANGES

It is suggested that the provisions of section 248 may be suitably amended to alsocover the cases where the payer does not deny the liability of TDS but is of the view that TDS is applicable at a rate lower than the rate determined pursuant to the order u/s. 195(2).

8.9 ISSUE

Restriction on deposit/adjustment of demands exceeding 20% of disputed amount pending disposal of appeal (Section 245/220 of the Income Tax Act)

PRESENT POSITION

The Central Board of Direct Taxes (CBDT) had, vide Office Memorandum dated 29-02-2016 and 31-07-2017, issued guidelines for granting stay ofdemands pending disposal ofappeals by first appellate authority. As per the aforesaid guidelines, where the outstanding demand is disputed before the Commissioner of Income-tax (Appeals) [CIT(A)], the assessing officer shall grant stay of demand till disposal of first appeal on payment of 20% of the disputed amount. However, in practice, it has been observed that, pending disposal of appeal by CIT (A), the amount of demands raised and collected by the assessing officers often exceeds 20% of total disputed amount and in certain cases, the entire demand is collected by way of payment /adjustment of refunds arising in any other assessment year.

PROPOSED CHANGES

Suitable provisions may be inserted in section 245 (which empowers the assessing officer to adjust refunds against the outstanding demands) or section 220 of the Act (which deals with payments of outstanding demands) restricting the assessing officers to raise and collect demands (by any mode) exceeding 20% of total disputed amount pending disposal of appeal by CIT(A). It may alsobe provided therein that, the demand in excess of 20% of disputed amount may be raised and recovered by the assessing the same. officer only with the prior approval of Chief Commissionerof Income-tax. Further, to safeguard the Revenue's interest, certain exceptions to the aforesaid general rule may also be provided in line with the ones contained in CBDT's Office Memorandum dated 29-02-2016.

8.10 ISSUE

Personal Hearing through VC- Faceless Appeal (Section 250 of Income Tax Act)

PRESENT POSITION

As per the Faceless Appeal scheme, 2020, the CCIT or Director General of Regional Faceless Appeal Centre may at his discretion approve the personal hearing through VC requested by the assessee.

PROPOSED CHANGES

It is suggested that wherever Personal hearing through VC is requested by the assesses, the same may please be granted without any discretion and accordingly suitable amendment may please be made, it will the help assessee to present his/her case through oral submission during faceless Appeal proceedings. Further, it shall provide natural justice to the assessee, thereby reducing litigation on this account.

8.11 ISSUE

Time Limit for passing orders by Commissioners of Income Tax (Apeals). (Section 250 of the Income Tax Act)

PRESENT POSITION

Section 250(6A) suggests a period of one year from the year in which appeal is filed for disposal by CIT(A). However, the same is of recommendary nature. Delay observed in disposal of such appeals even upto 3-4 years.

PROPOSED CHANGES

It is proposed that Section 250(6A) be amended to enforce timely disposal of appeal mandatory in nature to ensure rapid disposal of litigation ultimately benefiting Assessee and department.

8.12 ISSUE

Income Tax Refunds

PRESENT POSITION

Tax payers are concerned with the substantial pending refunds at the tax offices on account of both income tax and TDS. There is a higher withholding tax and the departments dealing with withholding tax and those dealing with assessments are different and it has been gathered that each officer act as per their own separate targets. Despite issue of lower rate tax certificate, often withholding tax is higher than the tax liabilities resulting in Tax refund. The assessees are constrained to get into prolonged litigation by way of appeal and have to face major difficulties in getting refunds which are rightfully due to them. It has also been observed that if a case has been selected for scrutiny, refunds process stops immediately, blocking the funds of assessee and this practice of delay in refund is against the policy of ease of doing business which is widely being propagated by out Govt.

PROPOSED CHANGES

Hence it is suggested that necessary instructions or guidance are issued for prompt refunds of TDS on submission necessary certificates by assesses within scheduled time.

9. FOREIGN TAXATION

9.1 ISSUE

Foreign tax credit- section 90 and 91 read with rule 128

PRESENT POSITION

A resident company who earns income from overseas jurisdiction is assessed in India as per Income tax Act 1961 for its global income and credit for doubly taxed income is allowable according to the provisions of sections 90 and 91 read with Rule128, which prescribes that tax credit is allowed on taxes paid for income from overseas. However, most of the foreign jurisdictions follow calendar year as assessment year. This has led to a practical difficulty in the computation of foreign tax credit as per Rule 128 due to difference in periods followed as assessment year in India and overseas jurisdiction. Further, in some of the foreign jurisdictions, the tax liability is also paid after the end of the assessment year. This will result in practical difficulty in claiming the foreign tax credit on the taxes payable in foreign jurisdiction due to the fact that taxes are not due in a foreign jurisdiction and hence not paid. This will result in huge financial hardship to the resident companies who earn considerable income from a foreign jurisdiction, which is doubly taxed, with the calendar year as assessment year and taxes are payable at the end of such assessment year.

PROPOSED CHANGES

Suitable guidelines may be incorporated in Income tax Rule 128 for method for apportionment of taxes paid in a foreign jurisdiction on calendar year basis (January- December) for claiming Foreign Tax Credit ("**FTC**") in India on assessment year basis (April- March). Further provisional claim of FTC may be allowed for the period January-March while filing the returns before actual remittance of such taxes on due date with a facility to revise the claim as per actual during filing of revised return or assessment proceedings.

9.2 ISSUE

Carry forward of excess foreign tax credit.

PRESENT POSITION

The Income-tax Act, 1961 allows for set off in respect of foreign taxes paid on overseas income. However, in case of loss/inadequate profits, no set off may be possible. In the current economic scenario of the global economy, business outlook has become extremely uncertain and results have become very volatile.

PROPOSED CHANGES

It is suggested that assessees be permitted to carry forward (say for five years) such unutilized foreign tax credit.

10. MISCELLANEOUS

10.1 ISSUE
Carry forward and set off of business losses: Section 72

PRESENT POSITION
Section 72 of Income Tax Act, 1961 provides for carry forward and set off of business losses against profit for a maximum period of 8 assessment years. With introduction of National Steel Policy 2017, India is aiming to build a competitive global industry with a crude steel capacity of 300 MT by 2030-31 which will require huge investments resulting to huge depreciation claim and thus negative taxable income. Losses available under the Income Tax Act may not be set off within the statutory time limit of 8 assessment years.

PROPOSED CHANGES

It is suggested to amend section 72 suitably so as to uplift the steel industry. The amendment will help to sustain the domestic steel industry performance.

10.2 ISSUE
Rationalisation of Reporting in ITR& Tax Audit Report (Section 92CE)

PRESENT POSITION
With regard to Secondary Adjustment as mentioned in Section 92CE of Income Tax Act, 1961, in case where excess money is available with the associated enterprises, then that excess money is to be repatriated to India within the time prescribed. If the money is not repatriated to India, assessee has been provided an option to pay additional tax @ 18% plus surcharge 12%. However with regard to Clause 30A of Form 3CD of Tax audit report, no suitable provision exists to report the details of additional tax deposited as per the provision.

PROPOSED CHANGES

It is recommended to amend the Tax Audit Report as reporting under clause 30A doesn't provide the proper disclosure about the tax deposited by assessee in lieu of making secondary adjustment.

10.3 ISSUE
Exit Window in Section 115BAA of the Income Tax Act, 1961

PRESENT POSITION
The non-availability of exit window at least once from Section 115BAA once opted by a Company is creating a genuine hardship as the Companies who have now adopted for lower rate of tax as per the said section are facing issues in practical terms that some of the benefits which they were earlier allowed now stands withdrawn.

PROPOSED CHANGES

Considering, this fact, a exit window should be allowed for the same once in a block period of five years.

10.4 ISSUE

Extending benefit of section 115BAB to transmission companies. (Section 115BAB of Income Tax Act)

PRESENT POSITION

Currently, the benefit of lower tax rate of 15% u/s 115BAB is available only to companies engaged in business of manufacture or production of any article or thing" which also includes the business of generation of electricity.

PROPOSED CHANGES

It is proposed to extend the benefit of section 115BAB to companies engaged in the business of transmission of electricity, to make the sector more competitive and reduce the cost of power in the hands of the ultimate consumers.

10.5 ISSUE

Minimum Alternate Tax (MAT) (Section 115JAA of Income Tax Act)

PRESENT POSITION

As per provisions of Income Tax Act, MAT Credit entitlement can be carried forward for a period of 10 years for the MAT paid prior to AY 2018-19 and for MAT paid after AY 2018-19 can be carried forward for a period of 15AYs.

PROPOSED CHANGES

It is suggested that the many companies, which are incurring losses and under Negative Net-worth should be exempted from MAT provisions. In case of companies with negative net-worth, it is proposed that set-off period of MAT should be without any time limit, which would give substantial relief to the industry to carry forward such MAT credit and adjustment during future years.

10.6 ISSUE

Cost of shares in case of a demerger where consideration is paid in shares

PRESENT POSITION

Currently, cost of shares in case of a restructuring through demerger wherein consideration is paid in shares is not defined in the act (Explanation 6 to section 2(19AA) scenario).

- . This creates confusion as to what should be the cost of shares received as consideration in

case the same is sold in future.

- 2(19AA) was amended to include splitting up of PSUs as a demerger.

PROPOSED CHANGES

- Amendment of section 49 to define cost of shares in case of a demerger where consideration is paid in shares (Explanation 6 to section 2(19AA) case).
- Section 2(42A) may be amended for period of holding for Sale of shares of such resulting entity to be counted from the date of acquisition of original asset

10.7 ISSUE

Special exemption to Refineries for waiver of penal interest for deferment of advance tax.

PRESENT POSITION

The profits of the oil industry is integrally linked to:

(a) International Crude Oil and product prices

(b) Government policy on duty structure, Pricing of products, subsidy –sharing etc.

Changes in both these factors significantly affect the refining margins and cannot be foreseen or reasonably estimated. Therefore, a correct estimation of profits for the year and remitting the correct amount of the advance tax instalments is not possible.

PROPOSED CHANGES

It is suggested that, the waiver of penal interest for deferment of advance tax, which is now given as a discretionary power to the Chief Commissioners of Income tax by CBDT circular No. FNo 400/234/95 dated 23.05.1996, may be allowed as a specific exemption for the oil industry.

In case of the others, a time limit for the disposal of waiver petitions may also be fixed since it is experienced that the genuine waiver petitions of assessee are kept pending for a very long period of time.

10.8 ISSUE

Interest on refunds

PRESENT POSITION

The Act charges interest from the assessee for delay in filing of return, delay in deposit of advance tax instalments etc. at the rate of 1% p.m. u/s. 234A, 234B, 234C etc. of the Act. However, the rate of interest granted on refund u/s. 244A is kept at 0.5% p.m. This disparity in rate of interest payable by the assessee and the Department causes additional interest on working capital for the assessees.

Further, at present, if there are manual order of refunds, there is no time limits to release actual money. Refund orders gets pending for very long and accrued interest included in the order is offered for tax. This is sheer injustice to assessee as one side he pays tax on accrued interest but doesn't get money.

PROPOPSED CHANGES

It is suggested, to have parity between assessee and department, hat the rate of interest on refunds u/s. 244A be amended from 0.5% p.m. to 1% per month or in both the cases the rate be kept at 0.75% p.m. further, there must be time limit for releasing money to manual refund order. In such cases, the rate of interest u/s 244 need to be increased from 6% to 12% p.a. which is similar to department charges on the pending dues.

10.9 ISSUE

Exemption from coverage under Place of Effective Management regulation section 6(3).

PRESENT POSITION

Finance Act 2015 introduced the concept of Place of Effective Management ("**POEM**") which is a test of tax residency of a foreign company in India. If the POEM of a subsidiary is situated in India, it is to be treated as a tax resident of India and liable to tax on its global income. The place of effective management in case of a company engaged in active business outside India shall be presumed to be outside India if the majority meetings of the board of directors of the company are held outside India. However, if on the basis of facts and circumstances it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India, then the place of effective management shall be considered to be in India. In case of Central Public Sector Enterprises ("**CPSEs**"), there are concerns that measures to be taken from time-to-time by CPSEs to ensure compliance with the applicable principles of management of Indian public sector entities specifically those relating to accountability and transparency and Government of India guidelines could lead to tax disputes with respect to the place of management. Further, the withdrawal of CPSEs directors from foreign subsidiary boards would adversely impact their ability to participate in the decision making of such entities including compliance with relevant Government guidelines. The increase in compliance costs including that of additional overseas manpower is also a cause of concern.

PROPOPSED CHANGES

It is therefore for consideration that, in the interest of effective implementation of government policies etc., subsidiaries of CPSEs be exempted from POEM requirements in India. It is also to inform that CPSE can establish JVs and subsidiaries only after approval of Niti Aayog as per extant instructions. As such, such JVs and subsidiaries are established with the explicit approval of the Government.

10.10 ISSUE

Limitation of interest deduction in certain cases.

PRESENT CHANGES

Finance Act 2017 introduced new section 94B w.e.f. 01.04.2018 which provides that interest expenditure incurred by an assessee in excess of 30% of its earnings before interest, tax, depreciation and amortization (EBITDA) will be disallowed if such interest expenditure pertains to loans from a non- resident associate of the borrower. This section principally covers loans provided by related parties ("associated enterprises") where such related party is a non-resident. However, by a deeming fiction, borrowings raised from sources outside India and guaranteed by an resident associated enterprise are treated the same as loans provided by a non-resident associated enterprise.

PROPOPSED CHANGES

Section 94B of Income Tax Act 1961 may be amended to specifically provide that the deeming fiction applies to loans guaranteed by ***"a non-resident associated enterprise"*** and not to resident associates enterprises. Further, it is also for consideration that the provisions of Section 94B be grandfathered to exclude financing arrangements entered into prior to March 31,2017

10.11 ISSUE

Computation of Book profit u/s 115JB to exclude profits eligible for deduction u/s 80-IA/ 80-IB of the Act.

PRESENT POSITION

Deduction available under sections 80-IA and 80-IB is not allowed to be excluded from the ambit of MAT provisions and hence, it is suggested that the book profit definition should exclude the profit from 80-IA and 80-IB respectively.

PROPOSED CHANGES

It may please be noted that the profits computed u/s 80HHC were allowed a deduction from Book Profits. Similar treatment may please be extended to Profits computed u/s 80-IA and 80-IB.

10.12 ISSUE

Exemption from payment of Minimum Alternate Tax (MAT) to the power sector companies-section 115JB of Income Tax Act, 1961.

PRESENT POSITION

If Income tax under the normal provisions is less than 15% of company's Book Profits, such book profit shall be deemed to be the total income and income tax (Minimum Alternate Tax i.e. MAT) at the rate of 15%+Surcharge + Education cess will be payable on such Book Profit. (Effective MAT Rate at present is 17.47%).

PROPOPSED CHANGES

It is suggested that power generating companies should be exempted from MAT, as these are capital intensive and returns are spread over a long period of time.

10.13 ISSUE

Benefit restricted under Sec 115BAC

PRESENT POSITION

Individuals & HUF opting for new tax regime u/s 115BAC are not allowed any benefit. This in fact has caused the concerned assesses to bear more tax than old regime

PROPOPSED CHANGES

Lot of Assesses have already availed Home Loan having the point of tax benefit in consideration. Such assesses are not having benefit to shift to new tax regime. In fact, the new tax regime has caused lot of such prospective home loan seekers to review their plan to buy new house which is indirectly detrimental to the interest of Housing Sector which is already going through a tough phase. In order to motivate individual and HUF assesses for purchase of residential house through Home loan, an exception may be provided u/s 115BAC to allow such assesses to set off loss House property loss (self-occupied) against other head of Income.

10.14 Tax Loss Carry back

Tax loss carry back is a concept similar to the tax loss carry forward. The principle difference is that a year in which a loss is noted is not carried forward to a subsequent year. Instead, the tax loss carry back is applied to a previous year in which the assessee has paid large sum of taxes, and allows you to reduce taxes already paid, which usually results in a refund of some of the taxes paid by the assessee. This system is widely practiced in United States by the Internal Revenue Service (IRS) of United States Federal Government.

Under this system, the assessee will have to refile the tax return of previous year for the carry back year, and request a refund accordingly, if the assessee has filed its tax return on time in the past. There is a specific provision in the US tax law system which allows them to carry back upto three immediate proceeding years in order to avoid unlimited time for reopening an assessment related to previous years. With the Indian Tax laws, aligning with global tax laws, this concept can be introduced in India also.

Thus in a business that had terrifically profitable years, an extremely bad business year might prompt an attempt to recoup some of the taxes paid in profitable years through a tax loss carry back. The above provision would also be attractive for foreign funds and institutions which are exposed to such environment globally but denied in Indian Taxation laws.

10.15 Impairment of Assets

For the purpose of calculation of book profit u/s 115 JB, clause (i) of explanation 1 to section 115JB refers that "the amount or amounts set aside as provision for diminution in the value of any asset" has to be added to the profit and loss account.

Clarity has to brought in the Act by referring that the Impairment of Assets are not provision for diminution in value of assets as they are guided by Ind AS 36 and since the profit and loss account has to be prepared in accordance with provisions of Schedule III of companies Act,2013, impairment of assets cannot be treated as amount set aside as provision for diminution in value of asset.

10.16 Scrapping of ICDS

Conceptually, tax should be paid on income; logically, income should be as per the books of accounts, especially if they are audited and maintained in accordance with generally accepted accounting principles, except to the extent of fair value accounting adjustments that neither cause income nor create losses in a recognized sense, as required under IFRS or Ind AS.

ICDS introduces a significant element of complexity and, more importantly, it is inconsistent with the concept of real income for example: Concept of capitalising borrowing costs irrespective of whether the funds utilized or not for the capital project, concept of materiality not recognized by ICDS by which small amounts have to be reconciled and taxed accordingly.

Various assessees are mandatorily required to follow method of accounting as per the Accounting Standards (AS) applicable in India, which is prescribed by the ICAI. However, section 145A deviates from the AS to certain extent. As per Guidance Note issued by ICAI in respect of method of accounting with regards to inclusive method as per S.145A, or exclusive method as per AS-2/Ind AS 2, there is no impact on the assessee's profit. Though there is no impact on profit and loss account, whether the assessee follows inclusive method or exclusive method, to comply with s.145A, the assessee needs to prepare profit and loss account following inclusive method, which is duplication of effort. Further, ICDS also requires that the valuation of inventories should be based on inclusive method of accounting.

Therefore, it is suggested that the entire ICDS may be scrapped altogether and erstwhile system may be put in place.

10.17 Restrictions on information called from Bank u/s 133(6) of the Income Tax Act, 1961

As per Sec 133(6) of IT Act, IT authorities require from any person including a bank information in relation to any matter which may be useful or relevant to an enquiry or proceeding under the IT Act.

Bank is having branches across the Country and Income tax authorities of different state seeking different information in different format creating problems in providing the same. It needs to be standardized and reduced to maximum of 3-5 years.

PART B:

INDIRECT TAXES

PART-B

RECOMMENDATIONS ON INDIRECT TAXES

I. GOODS & SERVICE TAX

1. TAXABILITY

1.1 ISSUE

Applicability of GST on Power Producing and Distribution Companies (Second proviso to Sec. 16(2) of CGST Act, 2017)

PRESENT POSITION

Presently, vide Entry No. 104 of Notification No. 2/2017-CT (Rate), dated 28 June, 2017, electricity as goods is exempt from GST. Also, transmission or distribution of electricity by an electricity transmission or distribution utility is exempt vide serial no.25 of Notification No. 12/2017-Central Tax (Rate), dated 28 June, 2017. Since production as well as transmission and distribution of electricity is presently exempt under GST, GST ITC is not available to such Companies.

PROPOSED CHANGES

It is proposed that exemption to Power producing and / or Power Transmission or Distribution utilities may please be reviewed in order to avoid any blockage of funds of the suppliers of such Companies on account of GST in the supply chain as second proviso to Sec. 16(2) of CGST Act, 2017 is not affecting the timeline for making payment by such companies to their suppliers (since electricity is exempt from GST, GST ITC is not available, thus GST amount is part of CAPEX). However, such suppliers are required to discharge their output tax liability to Govt. on the amount billed to customers and are also required to reverse the GST, ITC in case any payment is not made by them to their sub-suppliers within the prescribed time, which will increase in working capital requirement of suppliers due to delay getting payment from customers while making timely payment to their sub-suppliers within the prescribed time limit i.e within 180 days from the date of invoice.

1.2 ISSUE

Time of supply in case of price variation / similar claim (Section 12 & 13 of CGST Act, 2017 regarding time of supply, read with Sec. 60 of CGST Act, 2017)

PRESENT POSITION

Presently as per Sec. 12 read with Sec. 31 of CGST Act, 2017, the time of supply of goods shall be before or at the time of removal of goods. There are no. of projects granted by Govt. Departments / PSUs (Viz. cost plus contracts with Indian Railways, Hydro Projects etc.), the completion period of which spreads over number of years. Thus, ascertainment of final contract value takes a longer time (even beyond 18 months period) due to various approvals and other factors which are uncontrollable. Accordingly, invoice for differential amount is raised in subsequent period resulting in interest implications, which may or may not be paid by the contractee.

PROPOSED CHANGES

It is proposed/ suggested that wherever contract value is finalized by Govt. Dept. / PSUs in subsequent periods, a provision may be inserted that the Time of Supply in respect of any addition / reduction in Contract Value shall be at the time of determination of such additional / reduced amount and accordingly GST is required to be paid / adjusted on such amount. This will help/ facilitate in raising debit note in subsequent period without any undue interest implication.

1.3 ISSUE

Definition of "personal use" (Section 17(5)(g) of CGST Act)

PRESENT POSITION

Input tax credit in respect of goods and services or both used for personal consumption is not allowed. However, the term "personal consumption" is not defined.

PROPOSED CHANGES

It is suggested that the term 'personal consumption' may be defined, either in GST Act or its Rules as In the absence of such a definition/ clarity, disputes/ litigations would arise, as interpretation would become subjective.

1.4 ISSUE

Place of supply of Service (Section 12(3) of IGST Act)

PRESENT POSITION

Presently as per said section, in case of supply of service in relation to immovable property, the place of supply of service shall be the location of such immovable property. Accordingly, in case

of hotel services, the Hotel charges CGST & SGST, and for availment of credit of such CGST & SGST by the service recipients, registration in the State where hotel is located shall be required.

PROPOSED CHANGES

It is suggested to amend the Place of Supply provisions that in case where service recipient is registered under GST, i.e. for all B2B services (including services in relation to immovable property, hotels etc.), the Place of Supply shall be location of such registered recipient. Accordingly, IGST may be levied for which business entities can take credit in their respective States as it is not practical to take registration in each State since companies may not have office(s) in all State. If registration is required to be taken in all the States to avail ITC, the same will lead to increase in compliance cost of the company. Moreover In the absence of said amendment, CGST & SGST charged by the Hotels and other similar services that are "used in the course or further of business" shall be a cost to the company.

1.5 ISSUE

GST on supplies to deemed export projects. (Section 16(1) of IGST Act)

PRESENT POSITION

In pre-GST regime, Excise Duty (ED) was exempt for supply to deemed export projects. However, there is no exemption under GST for supply to such projects and the same is subject to GST at applicable rate.

PROPOSED CHANGES

It is proposed/ suggested that supply to deemed export projects may be considered at par with physical exports and accordingly should be included in zero-rated supply as the same shall reduce burden of cash requirement for companies dealing in supply to infrastructure projects including reduction in overall cost of the power project.

1.6 ISSUE

Levy of nominal GST on excluded petroleum products or include under Zero rated Supplies

PRESENT POSITION

Presently major petroleum products MS, HSD, ATF, Petroleum Crude, Aviation Turbine Fuel (ATF) and Natural Gas have been constitutionally kept out from levy of GST. These products are continuing under the existing Excise and Sales Tax/VAT laws. Inputs/input services procured by the petroleum industry post GST is liable to tax under GST whereas the major final products of the petroleum industry continue to be liable under the existing excise and sales tax/VAT laws, etc. Thus, credit of input GST is not fully allowed when used in supply of these non-GST goods, such exclusion is resulting in loss to the refineries/marketing locations as full credit of input taxes are denied. Dual taxation is contradicting the objective of introducing uniformity in taxation of goods and services all over the country. It has also resulted in additional compliance burden for the Petroleum Industry and Government as well.

PROPOSED CHANGES

It is suggested that these excluded products are also included in GST with nominal GST alongwith levy of Excise duty /VAT. Alternatively, these products may be included under zero rated goods in GST to allow the full availment of input tax Credits under GST. This will protect the State and Central revenues at the current levels. Such levy is already there for tobacco products.

1.7 ISSUE

GST on Royalty

PRESENT POSITION

The Royalty is being paid by companies pursuant to the statutory provisions contained under 'The Oilfields (Regulation and Development) Act, 1948' (ORD Act) and 'The Petroleum and Natural Gas Rules, 1959' (PNGR) on extraction of mineral oil & natural gas. Like any taxing statue, ORD Act & PNGR under which Royalty is levied has a charging provision (Section 6A of ORDA, 1948), provisions for granting exemption [Section 6A(5)], imposition of penalties, by way of imprisonment for failure to pay [Section 9(1)], power of enter and inspect any mine [Section 11(1)(a)], order production of any document [Section 11(1)(b)], etc. and examine any person [Section 11(1)(c)], besides the Rule making powers. Monthly returns are also filed in terms of Rule 14 (2). The rate of royalty etc. under ORD Act is fixed by the statute and not by the agreement between the parties. The rate of royalty may be revised subject to the limitation contained in the act in respect whereof the lessee have no say in the matter. Even the principle of natural justice are not required to be complied with. The lessee even cannot transfer mining lease without following the prescribed procedure under the law. The amount of royalty received by the state is expended as general revenue. Thus, such royalty as being paid by companies is in the nature of tax. Accordingly, the GST should not be applicable on payment of such royalty which is an imposition under Law as well as there is absence of quid pro quo.

PROPOSED CHANGES

It is proposed that a clarification may be issued that such Royalty being paid by comapnies u/s 6A of ORD Act is in the nature of tax and hence should not be subject to levy of GST.

1.8 ISSUE

Clarification under GST to the effect that consortium members including operator and the consortium formed under Production Sharing Contract (PSC) are not two distinct persons.(Section 7(aa) of CGST Act)

PRESENT POSITION

In order to augment the indigenous production of Crude Oil and Natural Gas, Govt. of India announced New Exploration Licensing Policy (NELP) in the year 1999 which, inter-alia, provides fiscal stability during entire period of contract. Accordingly, international competitive bids (ICB) are invited for award of hydrocarbon bearing Blocks. Normally, Indian and/or Foreign Companies form consortium and participate in the tender. After award of contract, Production Sharing Contract (PSC) is signed by the Govt. with the respective consortium Members for carrying out E&P activities. In terms of PSC, one of the consortium members is designated as an operator who has to carry out E&P activity based on work plans and budget duly approved by Management Committee which includes Government nominee as well. Hence, the operator is executing the PSC for exploration & production of hydrocarbons on behalf of consortium and other members are merely making the financial/capital contribution in terms of their participating interest. Therefore, the consortium formed under PSC is not an Association of Persons (AoP) and operator is not providing any service to its consortium members or vice-versa. Operator, as designated under PSC, is incurring expenditures from the contribution received from the partners for the Exploration and Production of hydrocarbons. Hence, there is neither any intention to provide service by operator to its members nor consortium formed under PSC can be treated as an AOP for the purpose of levy GST. As per the provisions of Income Tax Act, the constituent members of the PSC are not taxed as Association of Persons (AOP) but are taxed in their individual capacity. Therefore, the consortium members including operator and the consortium are not distinct persons.

PROPOSED CHANGES

In line with above, a clarification, may please be issued that the transactions between members and the consortium (under PSC) for carrying out E&P activities in terms of PSC should not be treated as service provided by one person to another for levy of GST, to avoid dispute with Dept.

1.9 ISSUE

TDS under GST. (Section 51)

PRESENT POSITION

Under section 51 of CGST Act, Public sector undertaking has been obligated vide notification no. 33/2017 Central Tax dated 15.09.2017 to deduct TDS under GST on payment/contract exceeding Rs. 2.5 lakhs. Also, for the purpose of making deduction, deductor has to obtain a separate registration under GST Act.

PROPOSED CHANGES

It is suggested that PSUs may be exempted from the applicability of this TDS under GST provision to reduce the overall compliance.

1.10 ISSUE

GST On Government Contracts

PRESENT POSITION

Various Government Contracts/Works are exempt from GST. However, such exemption is available to the Prime Contractor only i.e. the Agency to whom the work has been awarded by the Govt. As is the common business practice, some part of the works is further sub-contracted to multiple vendors. But it is observed that GST exemption is denied to such sub-contractors. This defeats the very purpose of providing GST exemption to a particular Govt. contract.

PROPOSED CHANGES

It is therefore requested to allow GST exemption in such cases to the entire chain of sub-contractors to avoid compliance and interpretation issues.

1.11 ISSUE

Services between Head office and its Units situated in another state.

PRESENT POSITION

Section 7 read with schedule III provides applicability of GST for transactions amongst distinct persons of the same entity. Issue arises whether head office is providing services to its unit situated in other states or whether units are providing services to head office. The issue has further attained significance in case of adavnce ruling in the case of M/s Columbia Hospital wherein it was held that head office is providing services to units and employee cost is required to be included in the value of services. Since, employees are for the company as a whole and not permanently mapped to any unit of the organization, cannot be considered as providing services among distinct persons.

PROPOSED CHANGES

It is suggested that necessary notification to be issued by Govt. providing exemption for deemed supply of services by head office to its units situated in another state and services by units to head office situated in another state. Such clarification would avoid unwarranted litigations at future date particularly in view of contrary AAR ruling in this regard.

1.12 ISSUE

Taxability on Renewable Energy certificate

PRESENT POSITION

The Government of India's Policy initiatives have led to a tremendous growth and development of renewable energy (RE) sector in the country. Government of India (GOI) has framed various policies for changing the energy mix ratio towards non-pollutant sources of energy and thus promoting the uses of renewable energy. One such initiative is inclusion of Renewable Purchase Obligation (RPO) in the National Tariff Policy 2006/ National Solar Mission 2010. Such policies are amended from time to time to increase solar/ non-solar RPO from 0.25% in 2012 to 3% by 2022. The GOI in July 2018 notified the Long-Term growth trajectory of Renewable Purchase Obligations (RPOs) for Solar as well as Non-solar, uniformly for all States/ Union Territories, reaching 21% of RPO by 2022 with 10.5% for solar based electricity. The RPO targets specified for solar and non-solar power are to be adhered and met uniformly by the Obligated Entities (which includes Discoms, Open Access Consumers and Captive power producers) of all the States and Union Territories. In line with RPO regulations, companies have been implementing various solar and non-solar RE projects across India to meet its RPO obligations. Accordingly, some companies realigned its investment decisions to fall in line with the GOI policies and invested huge sum of money in highly capital-intensive renewable energy generation. These investments were made in various states of Union of India based on the detailed technical study about availability of required wind speed and the available radiation for installation of Wind/Solar plants to meet the RPO obligations towards the captive generation of electricity. As per CERC regulations, RE Generator is permitted to retain the certificates for offsetting its renewable purchase obligation (RPO) or for their consumption units located in different parts of the country. However, the utilization of REC generated by a company in one state and utilized in another state is subject to levy of GST. Presently REC certificates fall under GST tariff heading 4907 and trading of REC certificates are subject to GST @12%. Since refineries are producing both GST and non-GST goods, there is loss of ITC proportionate to non-GST turnover of the refinery.

PROPOSED CHANGES

It is suggested that to promote /increasing the share of renewable in the generation capacity in the country, it is essential that REC certificates self-utilized against own-RPO's should not be taxed under GST in case of interstate utilization. The same should be treated at par with revenue from sale of electricity which is presently outside the ambit of GST. Secondly, the RE projects continue to suffer from cost disadvantage in terms of non-availability of ITC on GST paid on inputs/ input services and capital goods. Hence, it is also essential that RE projects should be exempted from levy of GST on inputs, input services and capital goods.

1.13 ISSUE

Corporate Environment Responsibility(CER) projects gets treated as Sponsorship. Section 9(3)of the CGST Act read with CGST Notification 13/2017.

PRESENT POSITION

Person executing the Project (CER Project) charges GST thereon. Additionally same being treated as sponsorship, all sponsorship activities are subject to payment of GST under reverse charge once again.

PROPOSED CHANGES

Corporates are mandated to undertake projects under Corporate Environment Responsibility. Such projects amount to sponsorship, additionally GST has to be discharged on reverse charge on the same. It is requested to exempt GST on all the CER projects on reverse charge basis.

1.14 ISSUE

Payment of IGST on reverse charge on Sea Freight/ demurrage - Section 5(3)of the IGST Act read with IGST Notification 10/2017 (SL NO 10)

PRESENT POSITION

Importer as per Sec 2(26) of the Customs Act 1962, has to pay IGST on reverse charge on the transportation of goods by vessel from place outside India up to the customs station clearance in India.

PROPOSED CHANGES

This provision should be removed as it is a case of double taxation. The importer pays custom duty/ IGST on the clearance of goods at custom port which includes the freight amount. Again paying IGST on the freight amount is paying tax twice on the same amount. Also it is revenue neutral as the importer gets the cenvat benefit. Moreover in case of High Sea Sales there is lack of clarity of who pays the IGST on the freight/ Demurrage amount.

1.15 ISSUE

Costs of oil and gas exploration and production activities contributed by non-operating partners to the operator under joint operating mechanism should not be treated as payment for "taxable services" - CBEC Circular dated 24.09.2014.

PRESENT POSITION

In respect of overseas E&P activities, the Department is taking a view that amounts remitted to operators by other consortium partners or overseas branches or Indian E&P companies are liable to GST as "business support services" rendered by operator/foreign branch to the Indian entity.

Such a view is totally contrary to the letter and spirit of the law. In oil and gas business, the consortium partners form a joint venture and typically one of the consortium partners acts as operator of the venture. All partners pay their share of the joint costs to the operator by way of advancing the funds (called cash calls). The operator pays the expenses from such funds and renders account of the expenses incurred.

Applicable VAT/GST as per laws of the country where the oil/gas mine is located is payable to the host government. Such expenditure would typically include the costs of carrying out seismic surveys, drilling of wells, construction of Production installations/platforms, transportation pipelines /facilities etc .and other associated operating costs.

There is absolutely no rationale to treat such contribution for incurring the expenditure for the oil field operations viz., seismic surveys, drilling of wells, construction of production installations/platforms, transportation pipelines/facilities etc. as taxable services as every

partner in the joint operations is responsible for its own share of costs of such overseas business.

It may be added that in none of the countries, where such company operates, there is any instance of VAT/GST authorities seeking VAT/GST on amount of cash calls paid by non-operators to the operator.

Further, similar issues may arise and be faced by Operators carrying out exploration and production activities in India.

PROPOSED CHANGES

It is proposed that a clarification by way of circular may be issued by CBEC to clarify that costs of oil and gas exploration and production activities contributed by non-operating consortium in proportion to their participating interest to the operator as well as the contributions of the operator under joint operating mechanism are not to be treated as payment for "taxable services" both under the earlier regime and also the new regime under GST.

The circular dated 24.09.2014 issued by CBEC has not clarified the position sufficiently. It may be considered to issue a circular specific to the Indian E&P Companies operating overseas to avoid unnecessary litigation.

1.16 ISSUE

Underutilization of Refinery Assets due to GST Applicability on Transfer of Intermediate Streams between Refineries and Blend components transferred within BPCL Refineries.

PRESENT POSITION

To utilize the refinery assets optimally and maximize production of value added products, the Refineries resort to transfer of intermediate streams and blending components within the own group of refineries and also from other Indian Refineries. Such transfers enables not only optimal utilization of the refinery assets but also avoids import of products and export of intermediates.

Stock transfer of intermediate product streams between refineries suffers GST with nil or minimal input tax credit available as products finally manufactured by Refineries are under Excise/VAT regime. Due to this, the transfer of Intermediate products between Refineries becomes commercially infeasible, which in effect results into underutilization of Refinery assets and production capacities and causes loss of optimum utilization of nation's resources.

In earlier tax regime, such transfers between two units of the same company were exempted from state taxes and in case of taxes like Excise, full tax credit was available to the receiving units. Further in some cases specific exemption were available viz. vide Notification No. 256/87-C.E. dated 25.11.1987.
Therefore, the said transfer which were either duty free or on which full tax credit was available under earlier regime is now taxable at the rate of 18% and very less (20%-30%) tax credit for the same is available. We wish to submit that there will be increase in Revenue of Government in form of GST/Excise Duty/VAT, if the levy of GST is exempted on transfer of intermediate products from one refinery to another.

PROPOSED CHANGES

From the deliberations above, it can be comprehended that the transfer of intermediate products is essential and requisite for national importance. The above transfers can be carried smoothly only by providing relief from levy of GST on the transfer of intermediate streams on the similar lines of the Notification No. 256/87-C.E. dated 25.11.1987 issued under the Excise law.

1.17 ISSUE

Non - inclusion of Natural Gas under GST Regime.

Present Position

Natural Gas is presently kept outside the ambit of GST till the recommendation of GST Council and existing legacy taxes viz. Central Excise Duty, State VAT, Central Sales Tax will continue to be applicable on Natural Gas. Non-inclusion of Natural Gas under GST regime is having adverse impact on Natural Gas prices due to stranding of taxes in the hands of Gas producers/suppliers and is also impacting Natural Gas based industries due to stranding of legacy taxes paid on Natural Gas.
The VAT rate on Natural Gas is very high in different states (viz. UP-26%, AP 14.5%, MP 14%, etc.). Since Gas based industries do not get benefit of tax credit of VAT paid on purchases of Natural Gas, it is resulting in increase in cost of production of such industrial consumers and would have inflationary effect on the economy.

PROPOSED CHANGES

In view of above, it is proposed that Natural Gas may be brought under GST ambit as it will have positive impact on the Natural gas based industry and will avoid stranding of taxes.

2. INPUT TAX CREDIT

2.1 ISSUE
GST INPUT

PRESENT POSITION

Section 16(4) of CGST Act, 2017- A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Further, Rule 36 [(4) of CGST Rules, 2017 prescribes that input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the invoice furnishing facility shall not exceed 5 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility. It has been noticed that number of times, Tax payer furnished the wrong GSTN in B2B Invoice data of GSTR-1 or file as B2C due to clerical error.

PROPOSED CHANGES

It is proposed that to insert explanation after Section 16(4): If any amendment of GSTN in B2B of GSTR-1 or amendment B2C will not restrict the input tax credit even if it is amended after the due date of furnishing of the return under section 39 for the month of September following the end of financial year in which such invoice or debit note pertains.

2.2 ISSUE
Interest on reversal of GST ITC on account of non- payment to supplier with in 180 days (Second proviso to Sec. 16(2) of CGST Act, 2017)

PRESENT POSITION
As per the present provision, where a recipient fails to pay to the supplier of goods or services, the amount towards the value of supply of goods/ services along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.

PROPOSED CHANGES

It is suggested that interest should not be charged on reversal of such ITC since there is no undue availment of GST ITC by recipient as there is no loss of revenue to the Government as tax has already been discharged by vendor, interest should not be charged from the recipient. It is also worthwhile to mention that the levy of interest in such cases was recommended to be withdrawn by the GST Council Meeting held on July 21, 2018.

2.3 ISSUE

Transfer of unutilized balance of GST ITC lying in Electronic Credit Ledger to distinct persons (Section 49 of CGST Act, 2017)

PRESENT POSITION

Presently the balance of ITC lying in Electronic Credit ledger of a GSTIN is not allowed to be transferred b/w. distinct persons (i.e. GSTINS under same PAN but registered in different/same States)

PROPOSED CHANGES

It is proposed/ suggested that transfer of unutilized balance of CGST and IGST Credit in Electronic Credit Ledger may be allowed b/w. distinct persons as a decision has been taken by GST Council in 45th GST Council meeting held on 17.09.2021 for transfer of Cash ledger balance of CGST & IGST between distinct persons. This will facilitate the Trade and Industry in working capital management by effectively utilizing the balance in cash Ledger for the entity as a whole instead on restricting the same to a particular GSTIN. On similar lines, ITC transfer may be allowed to facilitate better working capital management.

2.4 ISSUE

Input Tax Credit of GST paid on civil construction work done at Site office, storage yard etc., for erection / commissioning work to be carried out at site. (Section 17 (5) of CGST Act, 2017)

PRESENT POSITION

Presently ITC is not be available in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract.

PROPOSED CHANGES

It is proposed/ suggested that ITC should be allowed for expenditure incurred on civil construction works at site which are mandatorily required to be incurred for execution of contract. Seamless Credit should be allowed in entire supply chain to avoid any cascading effect

of taxes, as creation of these facilities is must at site for large infra-structure projects. Denial of Input Tax credit at intermediate stage is against basic principle of GST i.e. it will lead to cascading impact of taxes and eventually will increase the cost of goods/services and hence no goods/services should be kept out of credit chain which is the primary object of GST.

2.5 ISSUE

GST ITC in respect to expenditure incurred on CSR Activities (Sec. 16(1), read with Sec. 2(17)(b) of CGST Act,2017)

PRESENT POSITION

Presently as per Sec. 16(1) of CGST Act, 2017, ITC is eligible on any supply of goods or services which are used or intended to be used in the course or furtherance of business. Further, as per Sec. 2(17)(b), the definition of "Business" includes any activity or transaction in connection with or incidental or ancillary to the trade/ commerce etc. However, there is no clarity about incidental /ancillary activities in the definition of "Business".

PROPOSED CHANGES

It is suggested that the words 'in connection with' or 'incidental' in the definition of business may be clarified so as to include such activities which though might not have a direct bearing on the profits of the Company but are undertaken by the Company for the purpose of compliance under any law for the time being in force. The expenditure incurred on the CSR activities is mandatory requirement u/s. 135 of the Companies Act, 2013. Such expenses are not voluntary in nature and therefore do not qualify as gifts. Therefore, the ITC pertaining to expenditure incurred in compliance with Section 135 of the Companies Act should be allowed as eligible ITC under Section 16 of the CGST Act.

2.6 ISSUE

Cross utilization of GST Input Tax Credit against Excise duty/Sales Tax

PRESENT POSITION

As per the provision of GST Act, input credits can be claimed only if the output is also under GST. Therefore, purchases of goods and services which are to be used for MS, HSD & ATF will not be entitled for input tax credit.

PROPOSED CHANGES

It is suggested that in case of Petroleum manufacturing companies, the ITC of GST paid purchases may be allowed to be set-off against output excise duty and sales tax payment on these products. Therefore, suitable amendment may be carried out in the CENVAT Rules to allow the tax credit of GST paid inputs against the output tax liability of Excise on non-GST products since the credit was earlier available under CENVAT & VAT laws;

2.7 ISSUE

Payment to Supplier within 180 days (Section 16(2) of CGST Act, 2017).

PRESENT POSITION

Second proviso to section 16(2) provides that in case recipient fails to pay the value of goods/service alongwith tax to the supplier within 180 days from the date of invoice, ITC availed needs to be reversed along with interest thereon. The condition of payment to supplier is generally governed by the contractual agreement between the parties which depends on the various factors such as nature of work, credibility of the recipient etc. Once the payment of tax has been made by the supplier to Govt., disallowance of ITC to the recipient where he is not contractually liable to release the payment within 180 days from the date of invoice is unfound and is unnecessary burden on the legitimate recipient.

PROPOSED CHANGES

It is proposed that needful notification/clarification to be issued by Govt. that condition of 'fails to make payment within 180 days' to be reckoned with contractual conditions between the supplier andrecipient and not from the date of invoice.

2.8 ISSUE

Proportionate reversal of credit on "Capital goods" for every tax period.

PRESENT POSITION

In respect of capital goods used in the production of GST and Non-GST goods ITC on capital goods will be reversed along with 18% interest. Further, the formulae for reversal of credit are also very complicated due to which taxpayers are having unnecessary compliance and administrative hassle.

PROPOSED CHANGES

It is suggested that interest payable is to be waived in cases where surplus GST ITC is availed by the taxpayer in case of common capital goods.

2.9 ISSUE

Reversal of Input Tax Credit on Inputs and Input Services in proportion to Sales Turnover of Non GST output. Section 17(2) of the CGST Act read with Rule 42 of the CGST Rules.

PRESENT POSITION

The amount of the input tax credit is reversed of account of effecting Non-GST supplies namely MS/ HSD and ATF

PROPOSED CHANGES

Provisions be made in the CGST Act so that the input tax credit is not restricted in the case of sale of MS/ HSD and ATF (duty paid). Currently a major part of the input tax credit gets reversed on account of the sales of MS/HSD and ATF being non-gst product which affects the profitability/survival of the business

2.10 ISSUE

Reversal of Input Tax Credit on Capital Goods. Section 17(2) of the CGST Act read with Rule 43 of the CGST Rules.

PRESENT POSITION

Currently the provision entails proportionate monthly reversal in the ration of turnover of GST and Non-GST goods for a period of 60 months from the month of availing credit along with interest @24%.

PROPOSED CHANGES

This provision of reversal of a period of 60 month is highly impractical for capital intensive projects where it takes anywhere between 12-36 months to get projects started. Further there are more complication when project get abandoned/ calculation of IRR of the projects. It is suggested Capital goods credit be allowed in full as per the erstwhile Excise regime. If the same is not possible, the cenvatibility of capital goods credit be determined as per turnover ratio on monthly basis and reversal be effected accordingly on monthly basis not over a period of 60 months. Further provisions be made in the CGST Act so that the input tax credit on capital goods is not restricted in the case of duty paid sale of MS/ HSD and ATF which are not covered under GST.

2.11 ISSUE

Input tax credit to be allowed for construction of cross country petroleum and gaspipeline.

PRESENT POSITION

The input tax credit (ITC) provisions under GST provides that ITC of pipeline laid outside the factory premises shall not be available. In view of this, the goods and services purchased for construction of cross country petroleum and natural gas pipeline, input tax credit (ITC) is not available under GST regime.

PROPOSED CHANGES

GST law should be amended appropriately to allow ITC on goods and services used in construction of cross country petroleum and gas pipeline. This will help OMCs.

2.12 ISSUE

GST input tax credit on storage tanks.

PRESENT POSITION

As per the GST provisions, input tax credit is not available for immovable property but the same is available for plant and machinery. The expression "plant and machinery" has been defined in GST but it is ambiguous about availability of credit in respect of large petroleum tanks (LPG Spheres) and storage tanks that are underground erected on the ground forming part of the filling unit.

In case due to lack of clarity and technicalities involved, the Department considers the large petroleum tanks (LPG Spheres) and storage tanks as immovable property and not Plant & machinery, then non-availability of input tax credit would significantly increase the cost of oil distribution and will adversely affect economics of petroleum distribution business

PROPOSED CHANGES

It is unique to the business of oil industry to build huge storage tanks for storage and distribution of petroleum products. It is a huge capital expenditure and requires status of plant and machinery. A necessary clarification is required to be issued.

2.13 ISSUE

Non availability of Input Tax Credit of GST paid on exempt outward supplies by warehousing companies- Section 42 of Chapter V of The Central Good and Services Tax Rules 2017.

PRESENT POSITION

Warehousing companies are in the business of loading, unloading, packing, storage or warehousing of agricultural produce including rice. This is exempt from GST.

Though the output supply is exempt, but there is no provision in the GST law for the availing the Input Tax Credit of GST paid on various inputs used like chemicals, insurance, dunnage, fumigation covers, rent paid for warehouse, rent of go-downsand security services etc. May please note that without these inputs, warehousing business cannot be done.

Non-allowing of the GST paid on input has increased the cost of warehousing tremendously especially food grains.

PROPOSED CHANGES

It is requested that the input tax credit of GST paid by the warehousing companies may also be allowed, so as to make warehousing business more lucrative.

2.14 ISSUE

Reversal of Input Tax Credit where both taxable & exempt supplies are made- Section 42 of Chapter V of The Central Good and Services Tax Rules 2017.

PRESENT POSITION

In case, input goods and services are used partly for effecting taxable supplies and partly for effecting exempt supplies. The amount of such common Input Tax Credit is restricted to so much of the input tax as is attributable to the said taxable supplies. This reversal of Common Input Tax Credit also increases the cost of operations..

PROPOSED CHANGES

It is requested that the unutilized input tax credit may also be allowed to be availed for such Companies who are in storage of Foods grains.This shall reduce the warehousing cost of Food grains

2.15 ISSUE

Non availability of input credit on goods to the input service distributor (ISD) Section 39 of Chapter V of The Central Good and Services Tax Rules 2017.

PRESENT POSITION

At present an ISD is allowed to avail and distribute only input credit on services availed and not on goods. However, many a times goods are also purchased by ISD which are for the common utilization of all the units. Non availability of input credit on goods leads to increase in the cost of services provided**.**

PROPOSED CHANGES

ISD may be allowed to avail and distribute credit on goods also.The same will lead to reduction in cost of services provided by warehousing companies.

2.16 ISSUE

Interest on reversal of GST ITC on account of non- payment to supplier within 180 days.

PRESENT PROVISION

Second proviso to Sec. 16(2) of CGST Act, 2017 provides that where a recipient fails to pay to the supplier of goods or services, the amount towards the value of supply of goods/ services along with tax payable thereon within a period of 180 days from the date of issue of invoice by

the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in the manner as may be prescribed.

PROPOSED CHANGES

In case, provision for reversal of ITC for non-payment within 180 days exists, interest should not be charged on reversal of such ITC since there is no undue availment of GST ITC.

2.17 ISSUE

No ITC benefit, if GST is levied @ 5% on service of transportation of Natural Gas through pipeline. GST Rate on services of transportation of Natural Gas through pipeline [Present GST rates are @ 12% with ITC credit & 5% without ITC Credit].

PRESENT POSITION

a. It may be observed that presently GST rate on the services of 'transportation of Natural gas through pipeline' is applicable @12% (with ITC benefit) and @5% (without ITC benefit).
b. Further, as per GST Laws, two different registered units of an entity are considered distinct persons and inter-unit billing for supply of goods/ services between such units is required to be carried out with applicable GST. Considering such provisions under GST Laws, the lower GST rate @5% (without ITC Benefit) could not practically be implemented so far, as Input Tax Credit (ITC) of GST payable on the inter-unit billing, for services of transportation of Natural Gas, will not be available to recipient unit.

Further, Natural gas a much more cleaner source of energy than other alternative available and is primarily used in priority sectors like Power, CNG and fertilizer sector. The high rate of GST on the services of transportation of goods by pipeline will make Natural Gas costlier for power and CNG sector where Input Tax Credit of GST paid on transportation of Natural Gas is not available as the output product is not covered / exempted under GST.

PROPOSED CHANGES

It is proposed that GST @ 5% applicable on the services of transportation of goods by pipeline may be provided with ITC Benefit.This will lead to lower cost of transportation of Natural Gas and will help in promotion of cleaner source of energy for Power and CNG sector where ITC of GST paid on transportation of Natural Gas is not available. This will also enable Natural Gas to compete with other alternative polluting fuels like Furnace Oil, Naphtha, etc.

2.18 ISSUE

Admissibility of Input tax credit in the manufacturing state incurred by the exporter for positioning of the Non-GST goods for Export.

PRESENT POSITION

As per section 16, zero rated supply means export of goods and the state which exports the Non-GST goods are eligible for ITC. However in case of movement of Non-GST goods from manufacturing unit situated in one political state to Export ware house situated in another political state, GST ITC is not eligible, as such stock transfer movement is not termed as transaction under section 16 of the IGST Act 2017 in the manufacturing state even though the Central excise procedure is fully followed in such cases for movement of bonded product.

PROPOSED CHANGES

In view of above, Input tax credit to be allowed in the manufacturing state incurred by the exporter for positioning of the Non-GST goods for Export, when the factory and export warehouse are situated in different political states. This would provide relief to the exporters from burden of incurring GST taxes and duties are not to be loaded in case of exports.

2.19 ISSUE

Amendment in explanation inserted to Chapter V- Input Tax Credit of CGST Rules, 2017 to determine the value of Non-GST supply

PRESENT POSITION

Section 2(47) of CGST Act defines exempt supply to include non-taxable supply, therefore, for the purpose of common input tax credit (ITC) reversal, turnover of these excluded products would be counted as exempt supply as per formula prescribed under Rule 42 and Rule 43 for the reversal of common Input / Input Services and Capital goods credit respectively. Petroleum products manufactured in oil refineries are stock transferred out of the state to other states in order to cater the demand in those States and to maintain un-interrupted supply of these essential commodities across the country. In some cases, goods are transferred to another state due to change in mode of transportation like pipeline to railway/road and other logistic requirement. Since, GST is a State specific levy, every state has to apply its reversal ratio based on taxable & exempted turnover of that State.

The above provision is resulting into reversal of ITC on account of same goods in multiple states. Since, this product has already suffered ITC reversal in the manufacturing State, the same should not be included in turnover of the subsequent states. It is worth mentioning here that Under Cenvat Credit Rules, 2004 also, the value of traded goods was considered at only 10% value of traded goods for calculating reversal ratio for common input services.

PROPOSED CHANGES

It is proposed that considering the above, value of these non-GST petroleum products should be included in the Non-GST turnover of only in the manufacturing State and suitable amendment to be made in clause 2 of Explanation inserted to the end of Chapter 5- Input Tax Credit of CGST Rules, 2017.

2.20 ISSUE

Payment under Reverse Charge Mechanism (RCM) by Input Service Distributor

PRESENT POSITION

As per CGST Rules, in case Input service distributor (ISD) wants to take RCM supplies, a separate normal registration is required. Further, rule 54 (1A) provides that such common RCM supplies can be transferred to ISD by raising an invoice and certain documents are required for common RCM inward supply.

PROPOSED CHANGES

It is suggested that necessary notification to be issued by Govt. to allow the payment of RCM under ISDregistration.

3. GST RATES

3.1 ISSUE

Change in rate of tax for inward supplies related to supply chain of LPG Domestic.

PRESENT POSITION

Public Sector Oil Marketing Companies (OMCs) viz, are engaged in inter-alia of marketing of Liquified Petroleum Gas (LPG) for supply to domestic household consumers / customers, which includes propane and butane (hereinafter referred as LPG Domestic). Supply of LPG domestic is taxable at 5% GST in terms of entry 165A/165 of Schedule I of GST notification no. 1/2017-CT(rate) dt. 28.06.2017. Supply chain of LPG Domestic involves regular procurement of certain capital goods and services of which mainly consist of empty cylinders, blending services, bottling services and transportation services. There exists an anomaly in tax structure for the business of marketing LPG Domestic (supply to household domestic consumers / customers) as tax rate on finished product is 5% whereas related capital/inputs are taxable at higher rate of tax. Though, Input tax credit (ITC) for the aforesaid items is admissible to OMCs, however, there has been considerable increase in ITC due to anomaly in rate structure i.e. higher tax structure for inward supplies and lower tax structure for its related outward supplies. This has also been increased due to spending by OMCs for increased demand and new connection under Govt. of India's flagship programme of Pradhan Mantri Ujjawala Yojana (PMUY) which is likely to continue for few more years.

PROPOSED CHANGES

It is suggested that Change in rate of tax for the followings inward supplies related to supply chain of (i) LPG Domestic 14.2 KG Empty LPG Cylinders for supply of LPG Domestic – HSN 7311- from 18% to 12%, (ii) Services of LPG Domestic Blending (i.e. Propane and Butane blending)- HSN 9988-from 12% to 5%, (iii) Services of LPG Domestic Bottling (Bulk LPG to cylinders)- HSN 9985-from 18% to 5% and (iv) services of LPG Domestic Transportation through Pipeline- HSN 9965-from 18% to 5%.

3.2 ISSUE

Supply of LPG (Domestic) / NDEC at concessional rate of 5% GST.

PRESENT POSITION

Entry 165 to Schedule I of Notification No. 1/2017 - Central Tax dated 28.06.2017 provides that Liquefied Propane, Butane & LPG for supply to household domestic consumers or to NDEC (non-domestic exempted category) Customers by IOCL, HPCL & BPCL are taxable at 5% GST. Vide notification dated, 06/2018-CT dated 25.01.2018, entry 165 was amended and

entry 165A was inserted as follows: Entry 165- Liquefied Propane, Butane & LPG for supply to NDEC Customers by IOCL, HPCL & BPCL is taxable at 5% GST. Entry 165A- Liquefied Propane, Butane & LPG for supply to household domestic consumers is taxable at 5% GST. Further, CBIC vide circular dated 31.12.2018 has clarified that supply of LPG Dom by refiners/fractionators to OMCs for ultimate supply to household domestic consumers will attract 5% GST w.e.f. 25.01.2018. However, ambiguity with regards to applicability of GST rate on transaction undertaken during 01.07.2017 to 24.01.2018 remains under dispute. Intention of the Govt. is clear that LPG, Butane and Propane for supply to household domestic consumers should attract the concessional rate of GST @ 5%. Even though intention is clear, however, there is possibility of dispute on the eligibility of such exemption for transactions between OMCs with other Refinery, fractionators & private oil companies for the period 01.07.2017 to 24.01.2018.

The language of the notification granting exemption to LPG (Dom) prior to the amendment is the exact replica of the language used for grant of exemption from central excise duty. During period prior to 01.07.2017, PSU OMCs were purchasing LPG for the specified end use without payment of central excise duty by such SARs/Fractionators and also from other PSU OMCs. The above was settled proposition of the law for given specified transactions and the same has never been disputed by the Central Excise Authorities. Any dispute in this regard under the GST regime now may have repercussions in the pre-GST regime under Central Excise law as entriesin both regimes are identical.

PROPOSED CHANGES

It is suggested that some clarification needs to be issued to provide such concessional rate of 5% GST is applicable for all Transactions of LPG meant for ultimate supply to household domestic consumers & NDEC for the period 01.07.2017 to 24.01.2018. Such clarification is required to avoid any possible litigation at field units due to interpretation.

3.3 ISSUE

Rationalization of GST rate on goods and services for construction of cross-country petroleum and gas pipeline.

PRESENT POSITION

The goods and services purchased for construction of cross-country petroleum and natural Gas pipeline such as pipes, pipe fittings, gas compressors, metering instruments, works contract services, etc. are not eligible for input tax credit (ITC) under GST regime and will attract GST up to 28% (on Gas compressors). Applicability of high GST rate on goods and services required for laying the pipeline without benefit of ITC will substantially increase the cost of such projects.

PROPOSED CHANGES

It is suggested that since the goods and services purchased for construction of cross-country petroleum and gas pipeline such as pipes, pipe fittings, gas compressors, metering instruments, works contract services etc. are not eligible for input tax credit (ITC) under GST regime, high rate the rate of GST on such goods will increase the cost of pipeline projects. Therefore, it is requested that applicable GST rate on such goods and services should be rationalized and be exempted or considered at lower rate of 5%.

3.4 ISSUE

GST rate on components used in Battery Energy Storage Systems (BESS) (Not. No. 1/2017-Central Tax (Rate) dated 28th June, 2017)

PRESENT POSITION

Presently, the GST rate on components used in supply of Battery Energy Storage Systems (BESS) is 18%.

PROPOSED CHANGES

It is proposed/ suggested that GST rate on components used in Battery Energy Storage Systems may be revisited and revised to 5%/12% at par with both Solar PV plant & BESS as all are part of green/clean energy initiative, and hence, the GST rates for BESS should be 5% /12%.

3.5 ISSUE

Rate of Exchange of Foreign Currency for valuation of goods supplied to indigenous customer against foreign currency consideration (Rule 34 (1) of CGST Rules, 2017)

PRESENT POSITION

Presently as per the said rule, for determination of value of taxable goods, the rate of exchange of currency, other than Indian rupees, shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act,1962, for the date on which such goods are taxable in terms of section 12 of the Act. Further, the said Customs notification prescribes the exchange rates for “imported goods” and “exported goods”. However, there is no clarity for rate of exchange to be adopted for foreign currency billing to indigenous customer.

PROPOSED CHANGES

It is requested to issue necessary clarification in this regard which will prevent undue litigation with tax authorities regarding undervaluation of such supply of goods under GST Law provisions.

3.6 ISSUE

Applicable Rate of Tax on goods supplied to Solar Power projects (Notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017)

PRESENT POSITION

Presently vide notification No. 25/2018-Integrated Tax (Rate) dated 31st Dec'18 (amendment in IGST rate notification for goods), an explanation has been inserted to S. No. 234 of Schedule I (Sl. Non. 201A of schedule II w.e.f. 01.01.2021) of the notification that 70% of the gross consideration charged for supply of goods and services shall be deemed as the value of supply of goods (falling under CH 84,85 and 94) and remaining 30% shall be deemed as value of taxable services.

PROPOSED CHANGES

It is proposed/ suggested that a suitable amendment may be made in Sl. No. 201A of Schedule II of the rate notification that where the goods mentioned in this Sl.no. are supplied separately from services under separate / divisible contract(s), the GST rate on supply of goods shall be as applicable as per respective chapter heading / classification on the actual value of goods supplied. Under the supply of goods contract, various goods are being supplied which may or may not fall under CH 84, 85, 94 as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). As such, it is understood that all the material supplied, whether or not covered under said chapter heading shall be taxable @ 12% and services @ 18%, thus effective GST rate works out to be 13.8% (12% on 70%+ 18% on 30%). Otherwise, the taxability of goods, other than CH 84, 85, 94 goods cannot be ascertained. Further, the value of supply of goods under such contracts is around 90% as compared to 70% as stipulated in the notification, leading to increased tax burden / cost of solar power plant since GST IC is not available to such customers.

The above issue shall impact the industry at large since in case of a Power Plant, where presently the output, i.e. electricity is exempt from GST and thereby GST ITC is not available to customer, the higher incidence of tax will unduly increase the cost of setting up of the solar Power Plant and thus likely to cause hardships to the common mass of the country due to corresponding increase in price of Electricity.

3.7 ISSUE

Entry 164 of Schedule I of GST [Notification 1/2017-CT(rate) dt. 28.06.2017, as amended fromtime to time]- Supply of Furnace Oil falling under HSN 2710 for use as bunker

PRESENT POSITION

The prevailing rate of tax on supply of Furnace Oil (FO) grades as bunker fuel for use in ships or vessel is 5%. Furnace Oils are produced at refineries and thereafter transferred to supply points, which may be situated in state different to the state of said refineries, for onward supplies to ships or vessels for use as bunker fuel. Further, there is no process undertaken by such supply

points and FO is supplied as such to ships/vessels as bunker fuel. Therefore, the initial leg of such FO supplies, which is ultimately supplied as bunker fuel, from refineries to supply points situated in different state also to be covered under the principal entry 164 and applicable tax on the same to be 5% GST.

PROPOSED CHANGES

It is suggested that clarification from CBIC that the entire chain of supply of FO for use as bunker fuel including supply from refineries to supply locations, situated in other states, are also covered under entry164 of Schedule I of GST.

3.8 ISSUE

Difficulties in availing concessional GST @ 5% for procurement of shipbuilding inputs due to Ambiguity and absence of definition of "Parts of ship" under GST Law and non-availability of detailed guidelines/ circular/ procedure promulgated by the Government. Sl. No. 252 of Schedule I annexed to Notification no.01/2017- Integrated Tax (Rate) /Central Tax (Rate) dt.28.06.2017 issued by MoF.

PRESENT POSITION

Parts of ships (Under Any Chapter / Tariff item of goods of heading 8901, 8902, 8903, 8905 & 8906) will attract GST rate of 5%. However, due to ambiguity and absence of definition of "Parts" under GST Law, and non-availability of detailed guidelines/ circular/ procedure promulgated by the Government to avail this concessional GST @ 5 %, suppliers are charging GST at full tariff value rather than concessional 5% GST on materials which forms Parts of ship but which are generic in nature and can be used for other purposes also such as raw material and consumable, steel plates/ profiles/ section, Ms Angles, Flat bars, channels etc which are used for constructing hull of a warship/ submarine.

PROPOSED CHANGES

To address the ambiguity, it is suggested that, to introduce definition of "Parts" in the GST Law in line with the definition of "Parts" as defined under the chapter 9 of Foreign Trade Policy promulgated by DGFT.

3.9 ISSUE

GST Rate of following items are on Higher Side

a) Smart Meters
b) EV Charging Services thru EV charging station.
c) Super-Efficient Air-conditioner.

PRESENT POSITION

Presently GST rate on

a) Smart Meters --- @18%
b) EV Charging Services --- @18%
c) Super-Efficient Air Conditioner ---@28%

PROPOSED CHANGES

Seeking Reduction in GST Rate of

a) Smart Meters from 18% to 5% or 12%
b) EV Charging Services thru EV charging station from 18% to 5%.
c) Super-efficient Air-conditioner from 28% to 5% or 12%.

Reduction in GST rate shall strengthen the Government National electric mobility mission plans, help in reducing cost to end consumers which make energy efficient equipments EVs more affordable and encourage the use of such energy efficient equipments, EVs etc.

3.10 ISSUE

Rationalization of GST on the service of regasification of LNG. GST Rate on services of regasification of LNG [Present GST rates are @ 18%, if benefit of N/N 20/2019 Central Tax Rate dated 30.09.2019 not applicable].

PRESENT POSITION

a. Since the domestic production of Natural Gas is not enough to cater the increasing demand, import of LNG at large scale is required to augment the supply of Natural Gas for use in priority sectors such as Fertilizer, CNG, LPG, PNG etc.
b. The imported LNG has to be re-gasified and converted into Natural Gas (known as RLNG - Regasified Liquefied Natural Gas) for transportation and consumption in India. The activity of regasification of LNG presently attracts high GST @ 18%.
c. The levy of GST at higher rate of 18% on the regasification of LNG increases the landed cost of imported LNG for domestic industrial consumers. 'Natural Gas' is being kept outside the ambit of GST till the recommendation of GST council. Regasification of LNG is under GST ambit resulting in stranding of taxes, and a higher rate of tax owing to limited clarification is reducing the competitiveness of RLNG with other polluting fuels.

The activity of regasification may be considered as manufacturing, going by the definition of manufacture as per Sec 2(72) of the CGST Act and the transaction of regasification under job work will attract GST @ 12% vide notification no. 20/2019 Central Tax Rate dated 30.09.2019, instead of present rate of 18%. However presently the industry is not considering the said definition due to lack of clarity and continues to charge GST @ 18%.

PROPOSED CHANGES

In order to promote gas-based industry in India, it is suggested that suitable amendment/ clarification may be made so that activity of regasification attracts GST @ 12% on job work basis.It will reduce cost of cleaner fuel, thereby benefit gas based industry.

3.11 ISSUE

Clarification regarding GST Rate on Compressed Biogas (CBG).

PRESENT POSITION

Bio Gas is covered under GST regime and is taxable at the rate of 5% [sl.no. 127 of Schedule I of Notification No. 1/2017-CT (Rates)]. However, GST rate for CBG (Compressed Biogas) is not prescribed under GST law. It is understood that in absence of any separate GST rate for CBG (Compressed Biogas), taxation at the rate of 5% (i.e. the rate which is applicable on supply of 'Biogas') may be challenged by the GST authorities. 'Biogas'/ CBG (Compressed Biogas) can be transported and supplied in equal energy terms in a common pipeline network along with existing Natural Gas in the pipeline network.

PROPOSED CHANGES

In view of above, it is proposed that a clarification regarding GST rate on CBG may be issued so as to avoid any future dispute that CBG industry may face. Further, in case 'Biogas'/ CBG (Compressed Biogas) is supplied and transported through a common carrier pipeline or any other common transport or distribution system and becomes co-mingled and fungible with other gas in the pipeline/transportation/storage system and such gas is taken out from the system in the equal energy terms, or supplied through common dispensing unit, it may be considered as supply of 'Biogas'/ CBG (Compressed Biogas) and may be taxable under GST.CBG Industry will be benefited and future dispute will be avoided.

3.12 ISSUE

The street light activity under taken under street lighting national programme entered with various local authorities was taxable @12% and it has been considered as supply of services.

PRESENT POSITION

There is no clarification by the GST council or the Government on – (i) whether street lighting activity under street lighting national programme is to be considered as pure supply of services or pure supply of goods or composite supply of goods and services being a works contract and (ii) rate of Tax on the above transaction

PROPOSED CHANGES

The Government shall specifically provide clarification of such activity either as supply of goods or services.The proposed GST rates of such activities may be 5%.

3.13 ISSUE

Reduction of GST rate on Caustic Soda, being basic chemical.

PRESENT POSITION

At present, the GST rate on Caustic Soda is 18%.

PROPOSED CHANGES

The GST rate on Caustic Soda be reduced to 12%.

4. EXEMPTIONS

4.1 ISSUE

Exemption for payment of GST on purchase of supplies for Mega Power Projects.

PRESENT POSITION

GST on purchase of supplies for Mega Power Projects

PROPOSED CHANGES

Since there is no GST on generation and supply of Electricity it will be appropriate that supply of Goods & Services including works contract for Construction & Operation of Power Projects be exempted from GST which would help in reduction of project cost which will result in decrease in tariff for end consumers.This affordability will make electricity an alternate source of power to petroleum products, which are mainly imported. This will decrease the outflow of capital to foreign countries

4.2 ISSUE

GST on Interstate movement of material/equipment

PRESENT POSITION

In construction of power projects material/goods needs to be transported from stores in one state to another state often in case of emergency. In addition to this, assets are transferred from one unit to another unit of CPSE and other transactions are also carried out between the different units of CPSE situated at different state. As per the GST Act, movement of already procured items from one state to other state will attract GST which was not the case in earlier regime. This additional cost would increase the tariff and the cost of power to ultimate consumers.

PROPOSED CHANGES

It is proposed to exempt the GST on transactions/ transportation of material/goods between different units of the same entity located in different states. This will result in reduction of the project cost which will result in decrease in tariff for end consumers.

4.3 ISSUE

Clarification on non-applicability of GST on any component of sale price of goods not covered under GST.

PRESENT POSITION

In sectors not covered under GST such as Natural Gas, the GST authorities have started demanding GST on various components of sale price as per the terms of the contract, on which

applicable VAT/CST is being charged at appropriate rate. Recently, the department has raised show cause notices on the components of Reimbursement of input taxes/expenses, Marketing Margin etc. on sale of Natural Gas.

PROPOSED CHANGES

In order to reduce unwarranted hardship on dealer of non GST goods like Natural Gas on account of disputes, suitable clarification may be issued that various components of sale price considered in the invoicing as per the terms of the sale contract will not be liable to GST as these are the part of composite supply.

5. RETURN & REFUND

5.1 ISSUE

Matching of Inward upplies.

PRESENT POSITION

Section 16 of CGST Act, 2017 read with section 42 and rule 36(4) of CGST Rules, 2017 provides for restriction on availment of input tax credit based on the upload of invoices by the corresponding suppliers in their outward supply return (GSTR-1). As a recipient once service/goods are received, credit is availed against tax invoice and payment along with tax charged therein is made to the supplier, making the recipient responsible for tracking the invoices of respective supplier on portal and providing restriction on availment of input tax credit (ITC) in case of non-upload by supplier, is an additional burden on the recipient. Further, reversal of ITC due to non-upload by supplier also leads to double financial implication on the recipient as payment for the same has already been made to supplier. In case, payment of tax is not made by supplier, necessary action needs to be taken against the respective supplier under the provisions of CGST & SGST Act or IGST Act as the case may be, instead of putting additional financial burden on legitimate recipient through disallowance of ITC.

PROPOSED CHANGES

It is suggested that once the original tax invoice has been received along with receipt of supply, buyer should not be penalized for non-compliance by the seller. GST should be recovered from supplier and not the recipient of such supply by necessary notification to be issued by Govt. removing the condition of upload of invoice by supplier for availment of ITC by the recipient for ease of compliance. However, even if the matching of ITC is continued, it should be made quarterly to reduce the compliance burden.

5.2 ISSUE

Amendment in Supplies reported in GSTR-1

PRESENT POSITION

Certain times amendments are required for correction in supplies reported in GSTR-1 B2B and B2C category, which have implication on input tax credit available to the recipient. However there are restriction on same.

PROPOSED CHANGES

It is suggested that necessary facility may be provided on GSTN portal to amend transactions as B2B, freely for a period till annual returns are filed.

5.3 ISSUE

Refund due to Inverted Duty Structure-Formula under rule 89(5) of CGST Rules, 2017.

PRESENT POSITION

Section 54- Clause (ii) of proviso to section 54(3) Provide for Refund of accumulated ITC on account rate of tax on input being higher than rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, rule 89(5) of CGST Rule, 2017, provide for refund of ITC for inverted rated supply as perfollowing formula- Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

PROPOSED CHANGES

It is suggested that a formula provided under rule 89(5) for refund of accumulated ITC to be amended to provide therefund of accumulated ITC equal to the value of inverted tax amount i.e. difference of ITC availed on direct inputs related to inverted rated supply and tax liability on outward inverted rated supply. Further, the prevailing formula may be continued for refund of accumulated ITC towards common inputs for inverted rated supply.

5.4 ISSUE

Filing of fresh refund application consequent upon issue of deficiency memo

PRESENT POSITION

Section 54(1) of the CGST Act, 2017 provides that any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed.

PROPOSED CHANGES

It is suggested that suitable amendment be made in the rules whereby same application should be moved forward once reply is submitted by the applicant rectifying the deficiency or alternatively, fresh application should be deemed to be filed within two years' time limit if original application has been filed within the said period.

5.5 ISSUE

Unable to claim refund of unutilized Input Tax Credit (ITC) of GST arising out of inverted tax structure due to long gestation period of construction & delivery of ship. Refund of unutilized ITC in respect of inverted rated goods is governed by provisions of section 54(3) and Rule 89(2) (h) & 89(5) of CGST Act.

PRESENT POSITION

In shipbuilding industry it is experienced that input tax paid on procurement of ship building inputs exceeds GST payable on the finished ship leading to inverted tax structure. This results in accumulation of unutilized Input Tax Credit (ITC) at the end of each financial year. As per the provisions under GST law, in order to claim refund of ITC, there must be sale of inverted related goods and refund will be proportionate to the turnover during the year of sale and not full ITC as per the formula. In case of shipbuilding industry, invoice for supply of ship (turnover of inverted rated supply) is issued to customer on completion of construction and delivery of ship which occurs after a prolonged construction period of 40 to 66 month time from the date of commencement of ship construction activity. In case of weapon intensive defence ship, the construction period generally exceeds 66 months. In view of the longer cycle time, the input tax credit accumulated remained unclaimed for longer duration resulting into blockage of working capital.

PROPOSED CHANGES

The contract price of a ship is fixed at the time of signing of the shipbuilding contract. Hence the output tax liability can be determined with certainty at the beginning itself and thereby refund due can also be worked out. Considering long gestation period & complexity involved in shipbuilding and to address the issue holistically, MoD may impress upon MoF to exempt ship building industry from the applicability of the provisions of Rule 89(2) (h) & 89(5) of CGST Act and to allow refund of unutilised ITC at the end of each financial year.

5.6 ISSUE

Refund of huge Input Tax Credit Accumulation.

PRESENT POSITION

There are various common Inputs, Capital Goods and input services, which are covered under GST and used for supply of Non-GST products [MS (Petrol), HSD (Diesel) and ATF] as well as GST Products [LPG, SKO, Furnace Oil and other GST product]. As per the provision of GST Act, input tax credits can be claimed only if the output is also under GST. There is huge Input Tax accumulation.

This ITC Accumulation results in blockage of huge amount of working capital to the Corporation.

PROPOSED CHANGES

In view of the above, it is suggested that OMCs should be granted refund of ITC accumulation because they are still under dual tax regime. Therefore, suitable amendments in refund provisions under section 54 of GST Act and Rule 89 of CGST Rules, 2017 may be carried out so that these accumulated ITC can be refunded to OMCs.

5.7 ISSUE

Due date of ISD return

PRESENT POSITION

The due date of filling of ISD return is 13th of subsequent month and the due date of filling of GSTR 1 is 11th of subsequent month. There is a short gap between both the returns due dates. A registered person has to check GSTR 6A before distributing the Input Tax Credit in GSTR 6. Preparation of return as well as checking the supplier details from GSTR 6A is time consuming and the same is done under tremendous pressure. Further many times the assessee faces technical errors in offline filling and further the GST portal takes undue time to validate the records.

PROPOSED CHANGES

It is suggested to permanently extend the ISD return due date from 13th of subsequent month to 15th of the subsequent month by giving two more days for checking and filling. Further it is also recommended to allow the assessee to claim the ITC on provisional basis in case due date for filling the GSTR 6 is not shifted ahead.

5.8 ISSUE

GST on Advances

PRESENT POSITION

There is a requirement for payment of GST on advances in case of goods as well as services. This requirement was not only resulting in additional compliance and record keeping requirements but was also a cash flow issue since credit of such GST is available to the recipient only on receipt of goods/ services. Hence this requirement was recently relaxed for supply of goods only. However, this relaxation has not been extended to advances for supply of services, which also has similar challenges especially due to the long term nature of such contracts.

PROPOSED CHANGES

It is suggested that the requirement of GST should be relaxed for services as well since the recipient of the same is merely acting as a custodian of the said advance and is acting as an agent of the client.

5.9 ISSUE

Input Tax Credit in case of Quarterly returns

PRESENT POSITION

Companies with turnover of up to Rs. 1.5 crore a year are filling their returns on quarterly basis whereasthe companies with turnover of more than Rs. 1.5 crore a year are filling their returns on monthly basis. This will lead to a mismatch situation for availing the Input tax Credit.

PROPOSED CHANGES

It is suggested to keep the same manner for filing the returns for both category of tax payers to avoid the discrepancies in respect to Input Tax Credit.

II. CUSTOM DUTY

1.1 ISSUE

Concessional import duty benefit to spares & Direct Dispatch items under Sl. No. 414 of Customs Notification No. 50/2017 dated 30th June 2017 (Sl. No. 414 of Customs Notification No. 50/2017 dated 30th June 2017)

PRESENT POSITION

Presently the said notification and serial number allows import of goods at concessional import duty for manufacture and supply to power generation plant. Benefit of concessional rate of duty is not available for import of spares & Direct Dispatch items on which no further manufacturing activity is involved after import into India.

PROPOSED CHANGES

It is proposed/ suggested to extend the benefit of concessional rate of Customs duty in Sl. No. 414 of the notification for import of spares & Direct Dispatch items (BOI) on which no further manufacturing activity is involved after import into India as inclusion of spares & Direct Dispatch items (BOI) in Sl. No. 414 of the notification will also help in reduction in cost of power projects.

1.2 ISSUE

Project Import Regulations, 1986 regarding "Value of Bond" (Project Import Regulations, 1986)

PRESENT POSITION

Presently the value of bond under Project Import (PI) is equal to CIF value of the contract sought to be registered.

PROPOSED CHANGES

It is suggested that the value of the bond should be of the actual differential duty between Merit duty payable and duty benefit provided to the project under the scheme as the impact due to non-fulfillment of the procedure prescribed under Project Import will be only of the differential duty, so the bond should also be of the same value. It is also submitted that in case of bond submission for Advance Authorization, the value of bond is only differential duty amount.

1.3 ISSUE

Project Import Regulations, 1986 regarding submission of "Continuity Bond" (Project Import Regulations, 1986)

PRESENT POSITION

The Continuity Bond is to be submitted by the importer along with other documents at the time of registration of contracts.

PROPOSED CHANGES

It is suggested that Continuity Bond should be submitted by the owner/end user who is the ultimate beneficiary of the custom duty benefits as the Project Import is for a project and project owner/ proponent is the beneficiary of the duty concessions, and as the importer has to submit a number of documents issued by the Owner & End User which takes time in closure/ redemption of Bonds, the bond submission should be by project owner/ proponent.

1.4 ISSUE

Project Import Regulations,1986 – Limitation factor for import of goods under PI bonds. (Project Import Regulations, 1986)

PRESENT POSITION

Presently limitation factor for import of goods under PI bond is both for value and quantity as per Essentiality Certificate.

PROPOSED CHANGES

It is suggested that only quantity as per Essentiality Certificate may be considered as limitation factor for import of goods under Project Import bonds as Power projects are always of long gestation period and price of the commodity in today's economic environment are very dynamic. Further Exchange rate fluctuation contributes to the dynamic nature of commodity prices. Therefore, even though quantity is available as per EC, value of EC may exhaust. Hence quantity as per EC alone may be considered as limitation factor for import of goods under Project Import bonds.

1.5 ISSUE

Finalisation of the Project registered under Project Import - Final Duty Assessment for Bond Closure (PIR- 1986, Regulation 7) (Project Import Regulations, 1986)

PRESENT POSITION

Presently application for final duty assessment to be submitted within 3 months from last import.

PROPOSED CHANGES

It is suggested that submission of application for Project Import (PI) finalisations should be co-terminus with the duration of setting up of the power plant project as in Power Sector, the

gestation period of projects is usually very long and involves several manufacturing processes on imported items. Further after installation and commissioning of power plant it has to undergo further testing for performance, and installation certificate is generally released by the customer after completion of performance test. Linking of PI bond validity with duration for setting up of power project will facilitate power sector industry to comply with the provision for submission of application for closure of PI bond.

1.6 ISSUE

Project Imports Regulations, 1986 – Documentation for Closure of Project Import (PI) bonds. (Project Import Regulations,1986)

PRESENT POSITION

Presently there is a many requirement of documents for closure of Project Import.

PROPOSED CHANGES

It is suggested that only installation certificate may be considered for closure of Project Import (PI) bonds as any of the documents like Bill of Entry, import invoices are already available with the Customs. Further basic document like Essentiality Certificate (EC) is already submitted to the Customs at the time of registration of contract. Hence at the time of finalization of PI bond, only Installation Certificate from the concerned authority may be considered for closure of PI bonds. This will help in simplification of Project Import bond closure and in ease of doing business.

1.7 ISSUE

Drawback incentive in case of projects under "HOLD" due to force majeure conditions/ war like situations: Refund of drawback to customs for which exports proceeds are not realized within specified period.

PRESENT POSITION

Presently drawback is to be refunded to Customs with interest from the date of export for unrealized portion of export proceeds. However, Drawback rules are silent in case the project goes on HOLD for long periods due to force majeure conditions/ war like situations.

PROPOSED CHANGES

It is requested that in cases where projects are under HOLD for various reasons beyond the control of exporter like force majeure conditions, unrest or war like situations etc., provision for refund of drawback with interest may be waived as It will provide relief to exporters whose

project exports are stuck up due to various reasons beyond his control like force majeure conditions, unrest or war like situations etc.

1.8 ISSUE

Customs – Closure of old cases of PI bonds.

PRESENT POSITION

In old cases, some of the documents required for closure of PI bonds may not be available due to various reasons like fire incidents at offices, original documents submitted with Customs, bank, External Audit-Party etc. without keeping a copy of the same, etc.

PROPOSED CHANGES

In order to facilitate business houses, it is requested that guidelines may be issued for closure of old cases of Project Import (PI) bonds upon submission of Installation certificates citing the reference of EC and project completion certificate as in many old cases documents required for closure of bonds may not be available due to various reasons like fire incidents at offices, original documents submitted with Customs, bank, External Audit-Party etc. without keeping a copy of the same and it got misplaced etc.

1.9 ISSUE

Exports against Advance Authorization to be included in RoDTEP scheme. (Not. No. 19/2015-20 dated 17.08.2021)

PRESENT POSITION

Presently as per para 4.55 B of the RoDTEP circular, Inclusion of exports made against Advance Authorization would be decided based on the recommendations of the RoDTEP Committee.

PROPOSED CHANGES

It is requested to include the exports against Advance Authorizations in the RoDTEP (Remission of Duties and Taxes on Export Products) scheme at the earliest, as RoDTEP scheme works under budgetary framework and there is restriction on the carry forward of earlier year arrear. Early inclusion of exports against Advance Authorizations in the RoDTEP scheme will help exporters exporting against Advance Authorizations to avail the benefit of RoDTEP scheme before the allocated budget is exhausted for relevant year

1.10 ISSUE

Scope of utilization of scrips needs to be enlarged. (Not. No. 19/2015-20 dated 17.08.2021)

PRESENT POSITION

Presently scrips issued under RoDTEP scheme can be used for payment of Basic Customs duty.

PROPOSED CHANGES

It is suggested that scope of utilization of scrips may be enlarged to include IGST on imports, Customs Duty other than BCD in addition to utilization for payment of Basic Customs Duty (BCD) as restriction on the usage of scrips only for payment of Basic Customs duty may lead to blockage of working capital in export orders.

1.11 ISSUE

Clarification on applicable Import duty rate on Import of Propane and Butane.

PRESENT POSITION

Import of Propane and Butane meeting IS specs. 4576 for Non-Domestic Supplies by OMC's falls under specific Tariff Item 2711 1200 - Propane and specific Tariff Item 2711 1300 - Butane. as per Sl. No.156 & 157 of Customs Notification no. 50/2017 dated 30th June 2017 which specifies a levy of Basic Customs Duty of 2.5% with Nil Conditions. Recently Customs Authorities post amendment in Customs Tariff Schedule effective 01.01.2020 arising pursuant to changes as per Finance Act 2019 are insisting for clearance of Imported Propane and Butane under Tariff Item 2711 1910 LPG (for non-automotive purpose conforming to standard IS 4576) having Basic Customs Duty of 5%.

PROPOSED CHANGES

It is suggested that Ministry of Finance to intervene and provide clarification in this respect to avoid litigation in this matter.

1.12 ISSUE

Inclusion of Land Customs Station in Notification 208/77 for claiming Duty Drawback Benefit

PRESENT POSITION

Clause (c) of Notification ref. no. 208/77 as amended from time to time issued under Section 76 of the Customs Act, 1962 provides for admissibility of duty drawback claim on export of petroleum products through notified Land Customs Station (LCS) namely Panitanki, Raxaul, Jogbani, Sonauli, Rupedya, Gauriphanta and Dharchula. However, LCS Barhni & Bhithamore are not included in the said notification for NOC supplies. Hence the company is not able to file drawback on the exports to NOC undertaken through above said LCS.

PROPOSED CHANGES

It is suggested that to include LCS Barhni & Bhithamore as notified LCS under clause (c) of notification 208/77-Cus.

1.13 ISSUE

Exemption of Customs Duty on import of Liquefied Natural Gas (LNG)

PRESENT POSITION

Liquefied Natural Gas (LNG) is a clean fuel and mainly used in fertilizer and Power sector. Recognizing the shortage of Gas, Government has encouraged import of LNG. Presently, import of LNG attracts BCD @2.5% + SWS Cess @ 10%. However, Basic Customs Duty levied on import of Crude Oil is only Rs 1 per MT. Since LNG falls in the same logical category as Crude Oil, they must have the same level of taxation as applied to Crude Oil.

PROPOSED CHANGES

It is suggested to grant exemption of Basic Customs Duty (BCD) on import of Liquefied Natural Gas(LNG)

1.14 ISSUE

Removal of National Calamity Contingent Duty on Crude Oil levied @ Rs.50/MT

PRESENT POSITION

When the Nation was facing a severe drought during 2003, the Union Finance Budget of 2003-04 imposed National Calamity Contingent Duty (NCCD) of Rs.50 per metric tonne on domestic as well as on imported crude oil, amongst various other goods, to augment the fund available with the Govt. and to support the relief work in the areas affected by natural calamity. It was mentioned in the Finance Bill, 2003 that this new levy will be limited to one year only. However, the Govt. has kept this levy for year after year. This levy has put an additional burden on the Oil Refining Companies.

PROPOSED CHANGES

It is suggested that this additional burden of NCCD imposed on the Oil Refineries may be withdrawn.

III CENTRAL EXCISE

1.1 ISSUE

Upfront exemption of duties of Excise on HSD (Sl. No. 3 of Notification No. 11/2017-Central Excise)

PRESENT POSITION

Excise duty was exempt for High Speed Diesel (HSD) procured under ICB (International Competitive Bidding) conditions for the E&P sector vide Notification No. 12/2012-CE dated 17.03.2012. Post introduction of GST, exemptions were withdrawn and rates were prescribed for Excise Duty w.e.f. 01.07.2017 on High Speed Diesel (HSD) vide Notification No.11/2017-CE. E&P Companies pay excise duty on procurement of diesel that is used for petroleum operations. Under the Foreign Trade Policy 2015-20, goods procured under ICB are eligible for benefits applicable to 'Deemed Export'. Accordingly, the excise duty paid on diesel procurement for petroleum operations is eligible for refund.

PROPOSED CHANGES

It is suggested that to provide boost and incentive to the upstream sector, it is requested to restore the exemptions from the duties of excise (Basic Excise Duty, Special Excise Duty & additional duty of excise) on the HSD procured for the petroleum operations under ICB conditions & to ease of Doing Business.

1.2 ISSUE

Disposal of Obsolete/ Surplus goods procured at concessional or Nil rate of Customs Duty / GST as Scrap (Condition no. 48(e) of Sl. No. 404 of Customs Notification No. 50/2017-Cus)

PRESENT POSITION

The Govt. vide Customs Notification No. 25/2019-Cus dated 06.07.2019 has inserted a proviso under condition no. 48(e) of Sl. No. 404 of Customs Notification No. 50/2017-Cus., whereby an option has been provided to pay Basic Customs Duty (BCD) @ 7.50% of transaction value of such imported goods to be disposed off in non-serviceable form, after mutilation, subject to submission of a certificate from DGH to the effect that the said goods are non-serviceable and have been mutilated before disposal. In case of domestically procured goods also, there is a similar condition for such disposal on payment of GST @18% on transaction value. In Oil & Gas Industry, procurement of material are on estimated basis where due to technical difficulties (like drill plan change, data from exploratory phase, well construction contingencies, design change etc.), there is accumulation of such unused material for long time. It is experienced that DGH is finding difficulties in issuing such certificate. Hence, companies will not be able to dispose off scrap adversely effecting costs for storage and working conditions apart from causing safety and environmental concerns. This is also resulting in loss of revenue for GoI in terms of duty due to

non-disposal of the items. Further, the requirement to mutilate goods will significantly increase the cost for companies as the goods are spread across different parts of the country.

PROPOSED CHANGES

It is proposed that disposal of used and non-servicable materials, scrap generated out of revamping of existing infrastructure (pipelines etc), surplus, unused, obsolete and condemned items etc. which are no longer required for petroleum operation, may be permitted to be disposed off in terms of condition no.48(e) of Sl. No. 404 of Notification no.50/2017-Cus and GST Rate Notification No.3/2017, based on a certificate from the concerned authority in place of certificate from DGH. Further, the requirement to mutilate goods may also be removed for already used and non-servicable materials.

1.3 ISSUE

Exemption of Non-GST paid Ethanol/Bio diesel manufactured by Oil marketing Companies (OMC) and used for Ethanol Blended MS (Petrol) and Bio Diesel Blended HSD (Diesel) \

PRESENT POSITION

Ministry of Petroleum and Natural Gas vide Notification No, F. No.P-13032(16)/18/2017-CC dated June 8, 2018 has notified National Policy on Biofuels 2018. The Goal as specified in the said Policy is to improve availability of bio fuels thereby increasing its blending percentage, which can be achieved through reinforcing ongoing ethanol/biodiesel supplies or through increasing domestic production by setting up Second Generation (2G) bio refineries. In addition, in order to prevent burning of crop stubble, which is one of the major reasons of environmental pollution, OMC's are in the process of setting up of Second Generation Bio Diesel and Ethanol Plants. Currently OMC's procure Ethanol and Bio Diesel from independent manufacturers for blending with MS (Petrol) and HSD (Diesel) to market Ethanol Blended MS (Petrol) & Biodiesel Blended HSD (Diesel). In order to avoid double payment of excise duty, CBIC has exempted Ethanol Blended MS (Petrol) and Bio Diesel Blended HSD (Diesel) which is a blend of GST paid Ethanol/Bio Diesel and Excise paid MS/HSD from further levy of duties through various notifications.

Pursuant to the Govt.'s aim to reduce import dependence as well as to minimise pollution, OMC's are now in the process of setting up their own 2G Ethanol and Bio diesel manufacturing plants at various locations where raw materials for this would be available. Ethanol and Bio diesel manufactured by the OMC's will be used for blending. Since OMC's will themselves be producing these products, own consumption of ethanol/bio diesel produced will not be subject to GST. Thus exemption vide the aforesaid notifications will not be available as the self-produced ethanol/bio diesel used by OMC's themselves for blending will not be GST paid. Manufacturing facilities proposed to be set up will become completely unviable if the exemption as is currently available to GST paid ethanol/bio diesel is not extended to OMC's who are setting up these plants and will be using the production captively and such captive use is not subject to GST.

PROPOSED CHANGES

It is therefore requested that Ethanol Blended MS (Petrol) and Bio Diesel Blended HSD (Diesel) which is a blend of self-produced Non GST paid Ethanol/Bio Diesel (self-consumption will not attract GST) manufactured by OMC's and Excise paid MS/HSD similarly be exempted from further duties of excise as is currently being exempted for GST paid procurements.

1.4 ISSUE

Ethanol Blended Motor Spirit

PRESENT POSITION

Oil companies are blending Ethanol / bio diesel with MS / HSD in the prescribed ratio for selling Ethanol Blended MS (EBMS) / Diesel blended with Bio Diesel (B5 HSD). Excise law provides for exemption of duty on such blending activity. As per ministerial direction the sale price of these products is kept same as that of non-blended MS / HSD. Department is raising issue with regard to the recovery of the excise duty through price by the oil companies on the ethanol / bio diesel portion of the blended product on the ground that price is the same.

PROPOSED CHANGES

It is suggested that some clarification or notification may be issued by CBIC that in case of Ethanol Blended Petrol sold at the same price that of Motor Spirit would not be subjected to provision section 11D of Central Excise Act.

1.5 ISSUE

Concessional Rate of Duty – ATF for RCS flights

PRESENT POSITION

Notification no - 11/2017-CE as amended by notification 7/2019-CE dated 22/08/19 extends the concessional rate of excise duty @ 2% to Aviation Turbine Fuel (ATF) supplied to RCS Airline Operators for Regional Connectivity Services (RCS) flight from RCS Airport subject to conditions as stated therein (Normal rate of Excise duty on ATF currently is 11%). In terms of one of the conditions for the concessional rate of excise duty, such concessional rate is applicable up to 3 year from date of commencement of operations of RCS- UDAN airport or heliport or waterdrome as notified by Ministry of Civil Aviation or till the end of scheme period whichever is earlier (Sunset clause for the exemption). Also it is understood that Oil companies are required to supply concessional Excise duty ATF at RCS Airports only from their own refineries and cannot undertake procurement of the concessional duty paid ATF from other Oil Marketing Companies (OMC) / Stand Alone Refineries / Subsidiary etc. This is as per the settled

judicial position by Hon'ble Supreme court in the case of Hindustan Petroleum Corp. Ltd v. Commissioner reported at 2015 (320) E.L.T. A344 (S.C.) wherein CESTAT Mumbai decision reported at 2014 (301) E.L.T. 554 (Tri. - Mumbai) was upheld . The Oil companies are interdependent on each other and Purchase/ Sale of petroleum products between Oil companies in various States cannot be avoided. It will be very difficult for the Oil Companies to meet the requirement of RCS flights at RCS Airports without such inter- Company sale/ Purchase of concessional duty paid ATF in view of the location of the Refineries and RCS Airports that need to be catered. The said condition is putting constraints on the logistics of the Oil Companies ultimately putting restriction on the quantities of ATF that are being supplied to RCS flights .

PROPOSED CHANGES

It is suggested that a uniform date can be provided for the validity of the exemption for all supplies under RCS category to avoid disputes w.r.t to validity dates due to possible different interpretations and Suitable amendment in notification is required stating that "Aviation Turbine Fuel procured by any Public Sector Oil Company from any other manufacturer of the said fuels and drawn by Operators or Cargo Operators from the Regional Connectivity Scheme (RCS) Airport" eligible for concessional excise duty @ 2%.

1.6 ISSUE

Exemption to CNG from payment of excise duty.

PRESENT POSITION

Presently, Central Excise duty is applicable on CNG due to Chapter Note 3 of Chapter Note to Chapter 27 of CETA. It is desirable that CNG (conversion of Natural Gas into CNG) be exempted from Central Excise Duty. This will promote usage of this environmental friendly fuel in domestic and commercial transportation sectors.

It may also be observed that after introduction of GST considering that credit of GST paid on input/input services/ capital goods used for production/supply of CNG is not available to producers and suppliers of CNG which in turn leads to cascading and inflationary effect.

PROPOSED CHANGES

In view of the above, CNG may be exempted from levy of Central Excise Duty. This will make CNG more economical and will promote use of this environment friendly fuel in domestic and commercial transportation sectors.

1.7 ISSUE

Credit towards payment of Service Tax/Excise Duty paid in respect of any issues that arose during the course of Audit.

PRESENT POSITION

There is currently no mechanism available to claim credit of Excise Duty & Service Tax payments made, as a part of Audit compliance.

PROPOSED CHANGES

Clarification is necessary as regards the credit towards payment of Service Tax/Excise Duty paid in respect of any issues that arose during the course of Excise / Service Tax Audit by the Department for the period ending 30th June 2017.

1.8 ISSUE

Clarification on goods for Tariff classification covered under Motor Spirit (commonly known as petrol) and High-Speed Diesel.

PRESENT POSITION

Presently, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel are outside and ambit of GST as per the section 9(2) of the CGST ACT 2017.

However, the GST law does not define motor spirit (commonly known as petrol) and High-speed diesel. Various interpretation may be there what is covered under petrol and high-speed diesel (HSD) depending upon the sources. Accordingly, clarity is required as to which tariff would be covered under GST and which would be outside ambit of GST.

Further the Forth schedule to the Central Excise Act 1944 covers various goods which are covered under GST with blanks against rate of duty column.

Under the IS specification (i.e. IS 2796 / IS 1460) – BS VI grades are covered. However, BS II & BS III grade of petrol and diesel are not covered in any of the IS specification. Hence inter refinery transfer of BS II / BS III may have issues on classification as motor spirit/diesel.

PROPOSED CHANGES

Further clarity to be provided with regards to tariff covered in GST and not covered within the ambit of GST by suitable modification to fourth schedule so as cover only those products namely petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel which are outside the ambit of GST as per provision of section 9(2) of CGST Act 2017 as per the 101st Constitutional Amendment Act. In other words, schedule IV may specify the only products covered for levy of Central Excise duty and not the products covered under GST law to bring clarity across board.

IV MISCELLANENOUS

1.1 Following recommendation/ suggestion is required to be taken care with respect to Salt Industry :

(1) In Salt, 0% GST is applicable to all purchases while we have to pay GST on each and every transactions related with other than salt item i.e. Manpower services, Distributor & services etc. because of this, we cannot take benefits/input of GST already paid in other items. Therefore GST and all activities related to manufacture of salt and its distribution may be taken up for waving off.

(2) As 0% GST is applicable in Salt hence it is requested that salt industries to be away from the monthly tax returns as there is zero input on GST paid on other than salt items.

(3) HSL is the only company in the country, which is having huge deposits of Himalayan Rock Salt at Mandi Himachal Pradesh, which is used as animal lick or edible purpose. This consumption of Rock Salt is similar to other Common / Edible Salt. As statutorily there is supposedly no taxes on Salt, the Royalty and other taxes applicable on Rock Salt needs to be abolished.

1.2 CANTEEN SERVICES

Pre GST, exemption from Services Tax was provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act,1948 (63 of 1948), having the facility of air-conditioning or central air heating at any time during the year. Similar exemption may be provided under GST regime.

1.3 E-WALLET SCHEME SHALL BE INTRODUCED FOR EXPORTERS SOON

The GST council has decided that the government will be introducing the facility of an e-wallet. The e-wallet is a concept where on a provisional basis; the government will credit duty to the accounts of an exporter. This will enable exporters to pay off the duty directly from their e-wallet at the time of importing capital goods or raw materials for exports.

E-wallet facility was deferred by GST Implementation Committee (GIC) till 31.03.2020, with a condition that if new return system is rolled out smoothly and e-Wallet scheme is ready at an earlier date, then it could be rolled out before 31.03.2020. This has further been postponed to 31st March 2021 in the 39th GST Council Meeting.

Implementation E-wallet facility will help exporters in less manual documentation and better governance and compliance.

1.4 EXPORT OBLIGATION (EO) UNDER EPCG SCHEMES

EO under the scheme shall be, over and above, the average level of exports achieved by the applicant in the preceding three licensing years for the same and similar products. It may be noted that in Oil Industry, all petroleum products are subject to high volatility in the International markets and foreign currency fluctuations.

Due to this, the export target which is fixed based on the average turnover of preceding three licensing periods will be an aberration in certain years where the crude prices are at all-time high and in subsequent years crude prices have touched new lows. Hence, export obligations cannot be met unless there has been substantial capacity expansion.

Therefore, it is suggested that the mechanism of export obligation can be in the form of any average tonnage basis or any other physical quantitative basis rather than monetary basis.

1.5 REMOVAL OF NATIONAL CALAMITY CONTINGENT DUTY ON CRUDE OIL LEVIED @ RS.50/MT.

When the Nation was facing a severe drought during 2003, the Union Finance Budget of 2003-04 imposed National Calamity Contingent Duty (NCCD) of Rs.50 per metric tonne on domestic as well as on imported crude oil, amongst various other goods, to augment the fund available with the Govt. and to support the relief work in the area affected by natural calamity. It was mention in the Finance Bill, 2003 that this new levy will be limited to one year only. However, the Govt. has kept this levy for year after year. This levy has put an additional burden on the Oil Refining Companies.

It is suggestion that this additional burden of NCCD imposed on the Oil Refineries may be withdrawn.

1.6 FINAL ASSESSMENT OF IMPORTANT LNG CARGOES:

In the Customs EDI system, the final assessment of cargoes is pending due to the issues of commercial Unit Quantity Code (UQC), at present, the bill of entry for import of LNG o\is filed online in the EDI system in Cubic Meter (CBM) term. Thereafter, the bill of Entry is provisionally assessed by customs authorities in the EDI system, based on the transaction value in the provisional invoice.Measurement and invoicing of the quantity of LNG is in Million Metric British Thermal Units (MMBTU). However, this UQC of MMBTU is currently not available under EDI system.

This has resulted in an inordinate delay in carrying out the final assessment due to UQC constraint (MMBTU is not available as one of the UQC in the drop-down menu of EDI system). The necessary changes in the EDI to incorporate the MMBTU is not available as one of the UQC in the drop-down menu of EDI system.Option to manual assessment of LNG cargo may be extended till the time above modifications are done in the system.