



**Advocates**

# NEWSLETTER

**Mohit Malik and Associates**

VAT, Income Tax and Service Tax

**Issue 1/1**

**April-September, 2014**

**Dear Valued Reader,**

**Greetings of festive season!**

It gives us immense pleasure to inform you that we have decided to bring out a quarterly Newsletter. Our Team Head, Mr Mohit Malik had a long desire to bring out a quarterly Newsletter to update our clients about the latest developments and amendments in the VAT, Income Tax and Service Tax; but somehow or the other it has been lingering on for shortage of time.

Now, that idea has come true and we have taken a decision to make it a regular feature. Since it's our first Newsletter, we will start with our brief introduction and update you with latest notifications, amendments and also relevant judgments pronounced during the previous quarter. This first Newsletter will cover the amendments for the past six months, so basically the first Newsletter will be half yearly and after that it will be released on a quarterly basis.

Please do revert with your views, thoughts and comments on this first issue of Newsletter and how we can continue to serve you better.

**With warm regards – Mohit Malik, Editor**

## **OVERVIEW:**

We provide a full suite of integrated Consultancy and Compliance support services to our clients. We have the experience and the expertise to quickly cater to the needs our reputed clients. We maintain high values for our clients which is a strategic move for forward-thinking organizations, as we consistently deliver superior value and achieve the highest standards. Most importantly, we serve as your virtual compliance Consultant, ensuring quality service, confidentiality, integrity, and on-time execution for each and every requirement of your company.

We represent the cases of our clients/companies until the stage of concerned Tribunals. We have organized Seminars on VAT to educate the concerned compliance officers and our clients. Mr. Mohit Malik is the Past President of Member of Gurgaon Chamber of Commerce and Industry, Visiting Consultant and Member of PHD Chamber of Commerce.

Our experience as a strategic consultant to over one thousand companies consolidates our ability to deliver top-class Taxation support services. To provide seamless and integrated services in tune with latest amendments, we have trained a multidisciplinary team which takes care of every aspect of your project. This team is dedicated and sincere to provide hassle-free services to our clients.

We are providing services to our clients to their utmost satisfaction so that they may focus more on core competencies to raise their business to the next level and expand their business model.

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## Notifications/Amendment during the past quarter:

Notification no.	Date of Notification	Gist
S.O. 49/H.A.6/2003/S.59/2014	16 <sup>th</sup> Apr, 2014	Notification – Regarding rationalization of VAT rate on Earthmoving equipments.
S.O. 51/H.A.6/2003/S.59/2014	23 <sup>rd</sup> May, 2014	Notification regarding amending VAT rate on Scientific Instruments & Cell Phones under the Haryana VAT Act 2003
S.O. 67/H.A.6/2003/S.24/2014	20th Jun, 2014	Notification regarding increasing of VAT rate on TDS from 4% to 5%
S.O. 83/H.A./2003/S.60/2014	24th Jul, 2014	Regarding review of Refund Policy – Entrusting of approval work to committee of officers under HVAT Act, 2003 Regarding review of Refund Policy – Entrusting of approval work to committee of officers under HVAT Act, 2003
S.O.89/H.A.6/2003/S.60/2014	12th Aug, 2014	Regarding amendment in sub-rule (2) for inserting the definition of 'Developer', substitution of rule 49 and insertion of a New Rule 49A regarding Lumpsum Composition Scheme in respect of Developers
S.O.94/H.A.6/2003/S.59/2014	26th Aug, 2014	Regarding tax exemption/reduction on Pulses (Daal) and Oil cake (Khal).

### Important Judgments of various Authorities:

**Contract for manufacture, supply and installation of lifts in a building, whether is a contract for sale of goods or is a contract for works contract.** Held, works contract in case of A.P. vs. Kone Elevators India Ltd. (2005) 26 PHT 1 (SC) (FB).

**Fabric manufactured out of HDPE by warp and weft pattern is a textile. Thus any textile may be cotton, woolen or silk either from natural fiber or manmade fiber, would fall within the scope of exempted goods.** A.R. Plastic Pvt. Ltd., Jhajjar vs. State of Hr. (2014) 48 PHT350 (P&H).

**Pre-owned means a car purchased or acquired for re-sale by a car dealer liable to pay tax from a person who owned the car as a consumer. It is only then that it could be the first sale of pre-owned car by a dealer liable to pay tax under the Act.** G.E. Money Financial Services (P) Ltd. vs. State of Hr. (2014) 48 PHT 322 (HTT).

**Surcharge is not payable by lump sum contractor** held in case M/s Bhima Jewellery vs. Assistant Commissioner (Assessment) (2014) 48 PHT 329 (SC) (FB), Hon'ble Apex Court held in this case that "Option of composition of tax is like a bilateral agreement between the parties with an object to dispense with the rigors of regular assessment. The dealer is given the choice of opt for compounded payment of tax and once the option is exercised and the same is accepted by the concerned authority, it is no longer open to the dealer to request for a regular assessment".

**No liability can be fastened on the purchasing dealer on account of non-payment of tax by the selling dealer in the treasury unless fraudulent or collusion or connivance with the selling dealer or its predecessors with the purchasing registered dealer is established.** Gheru Lal Bal Chand vs. State of Haryana (2011) 40 PHT 145 (P&H) followed in the case M/s Shubham Products vs. State of Haryana (2014) 48 PHT 531 (HTT) (FB)

**Deferred amount of tax – Calculation – one half of the tax payable upfront along with the returns in lieu of deferment of tax held is computable net of input tax. Industrial unit availing of benefit of deferment of tax has to file the same returns and compute his tax liability exactly in the same way a unit not enjoying such benefit, so tax payments at the hands of an industrial unit availing deferment of tax also shall be as given in section 3(5) of the Act which is net of input tax.** Sonex Auto Industries (P) Ltd. vs. State of Haryana (2010) 36 PHT 575 (HTT)

**All items of vegetables and fruits that undergo any form of processing so long such items have an acceptable degree of similarity, would deserve to be classified as items of processed vegetables or fruits.** Pachranga Syndicate Pvt. Ltd. vs. State of Hr. (2014) 48 PHT 263 (P&H)

**MOHIT MALIK**  
Chief Editor

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