



## INCOME TAX

### PROPOSED AMENDMENTS IN FINANCE BILL, 2017

#### ❖ Section 206C(1D) – Exclusion of specific reference to sale of jewellery, cash consideration exceeding Rs.5 lakhs -Finance Bill, 2017.

Section 206C(1D) provides for TCS obligation on sale of jewellery, sale of bullion, and residuary limb being any other goods (other than bullion or jewellery), if the value of consideration received in cash exceeds specified limits as under:

For sale of jewellery, cash consideration exceeding Rs. 5 lakhs. For sale of bullion and any other goods in residuary category, cash consideration exceeding Rs. 2 lakhs

The Finance Bill 2017 proposes to omit specific reference to jewellery' from section 206C(1D) such that post amendment, TCS obligation would be in respect of cash sale of "bullion" or "any other goods (other than bullion)" of an amount exceeding Rs. 2 lakhs. The proposed amended provision would read as under:

"(1D) Every person, being a seller, who receives any amount in cash as consideration for sale of bullion or jewellery [or any other goods (other than bullion or jewellery) or any other goods (other than bullion) or providing any service], shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent of sale consideration as income-tax, if such consideration,—

- i. for bullion, exceeds two hundred thousand rupees; or
- ii. for jewellery, exceeds five hundred thousand rupees; [or]
- iii. for any goods, other than those referred to in clauses (i) and (ii), or any service, exceeds two hundred thousand rupees:"

#### ❖ Section 50CA and section 56(2)(x)(c)- Fair Market Value to be full value of consideration in case of transfer of unquoted shares

The Finance Bill 2017 proposes to insert new section 50CA to provide that in case of transfer of shares of a company other than quoted shares, the fair market value of such shares determined in the prescribed manner shall be deemed to be the full value of consideration for the purpose of computing income chargeable to tax as capital gains.

Further, Explanation to the proposed section states that "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

The Finance Bill 2017 proposes to insert new clause (x) in sub-section (2) of section 56 so as to provide that where any person receives immovable property without consideration and its stamp duty value exceeds Rs.50,000, the same would be subject to tax. Likewise, if any person receives immovable property for inadequate consideration, and the difference between the stamp duty value and actual consideration exceeds Rs.50,000, the difference would be subject to tax in the hands of the recipient under the head "Income from other sources". Clause (x)(c) provides that where any person receives any property other than immovable property –

### EDITORS NOTE

Dear Readers, this 10th edition highlights on proposed amendment in Income Tax and some important changes in Service Tax also updates on GST.

We do hope that you find the contents informative.

Request your valuable suggestions for improving the scope and nature of content in order to make it more relevant and useful.

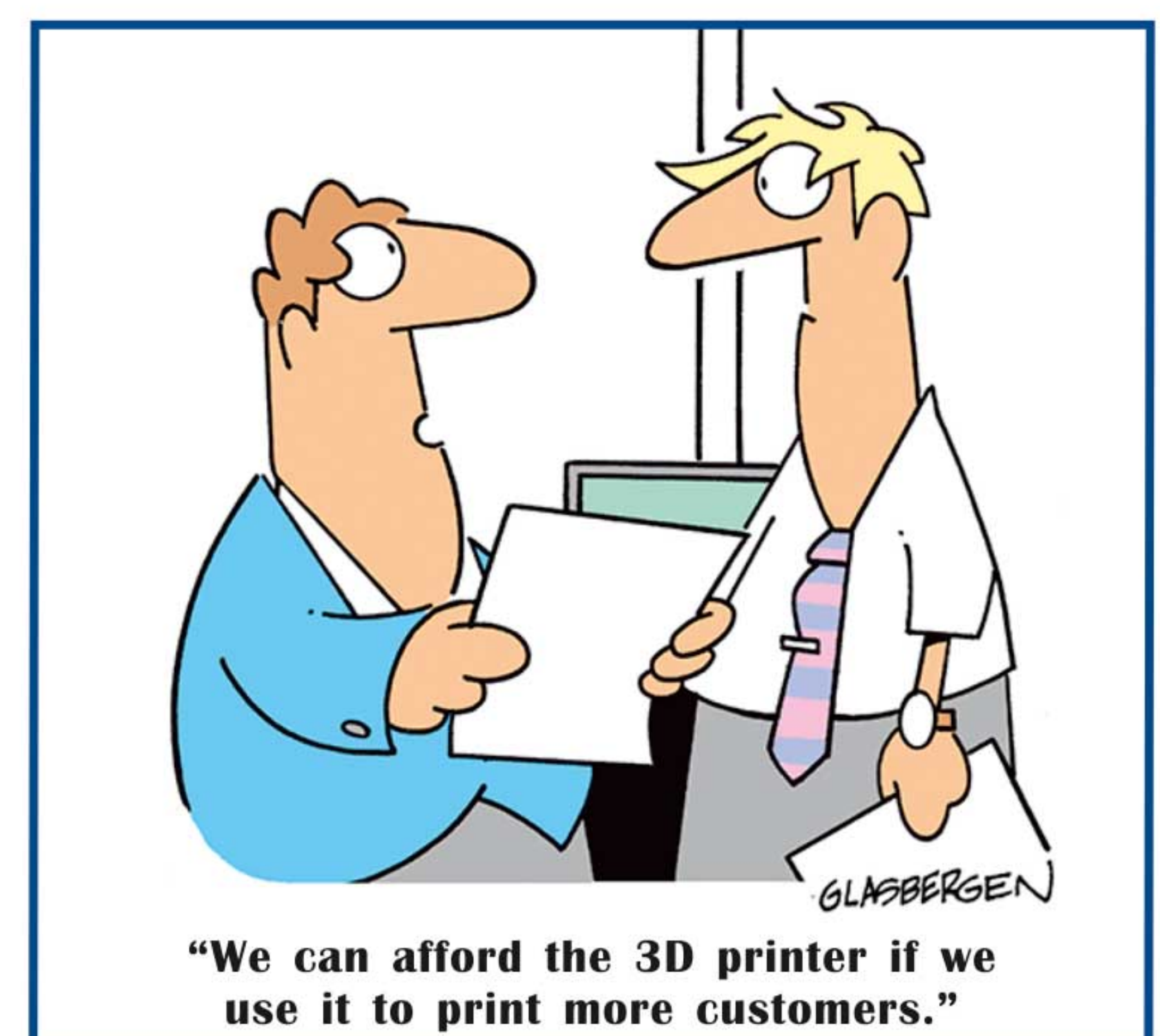
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### TAX DUE DATES - MARCH 2017

#### Monthly Compliance:

Sl. No	Particulars	Due Date
1	Service Tax Payment	06-Mar-2017
2	Central Excise Payment	06-Mar-2017
3	TDS / TCS Payment/Remittance	07-Mar-2017
4	Central Excise Monthly Return	10-Mar-2017
5	CST Payment	20-Mar-2017
6	VAT Monthly Payment	20-Mar-2017
7	PT Payment – Employees	20-Mar-2017
8	ESIC Payment	21-Mar-2017
9	PF Payment	15-Mar-2017
10	PF Return	25-Mar-2017



Continued





- Without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property shall be chargeable to tax as 'income from other sources'.
- For a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration shall be chargeable to tax as 'income from other sources'

❖ **Relaxation from scrutiny provisions for assesses, having taxable income upto Rs.5 lakhs other than business income, filing return for the first time –**

In the Budget Speech, the Hon'ble Finance Minister mentioned that the assesses, having taxable income upto Rs.5 lakhs other than business income, will not be subjected to scrutiny unless there is specific information available with the Department regarding his high value transaction.

❖ **Section 94B- Limitation of interest benefit provisions introduced**

The Finance Bill, 2017 proposes limitation of interest benefit (deduction) where an Indian company, or a permanent establishment of a foreign company in India, being the borrower, pays interest exceeding rupees one crore in respect of any debt issued/guaranteed (implicitly or explicitly) by a non-resident AE. The interest shall not be deductible in computing income chargeable under the head 'Profits and gains of business or profession' to the extent, it qualifies as excess interest.

Excess interest shall mean total interest paid/payable by the taxpayer in excess of thirty per cent of cash profits or earnings before interest, taxes, depreciation and amortisation (EBITDA) or interest paid or payable to AEs for that previous year, whichever is less.

There will be restriction on the deductibility of the interest in the hands of the taxpayer in a particular financial year to the extent it is excess as explained above. However, the same shall be allowed to be carried forward for a period of eight years and allowed as deduction in subsequent years. The above restrictions shall not be applicable to the taxpayer engaged in the business of banking or insurance. These provisions will be applicable for FY 2017-18 and subsequent years.

❖ **Restriction on set-off of loss from House property**

The Finance Bill 2017 proposes to insert sub-section (3A) in section 71 to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to two lakh rupees for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.

❖ **Relaxation of certain conditions from 1.4.2018 – Relaxation may be effective from 1.4.2017**

Under section 80-IBA, inserted by the Finance Act, 2016 from 1.4.2017, deduction of 100% of profits derived from development of affordable housing projects approved on or after 1st June 2016 is available, subject to fulfilment of specified conditions. The Finance Bill, 2017 has proposed amendments in section 80-IBA so as to relax some of the conditions required to be fulfilled for grant of deduction. These amendments provide for:

- i. Extending period within which housing project is to be completed to five years from the date of approval;
- ii. Substituting references to "built-up area" with "carpet area" as defined in the Real Estate (Regulation and Development) Act, 2016;
- iii. Housing project located in the outskirts of metro cities (i.e. located within 25 KM periphery of municipal limits of metro cities), which were earlier required to comply with conditions applicable for housing project located in metro cities, now need to comply with less restrictive conditions as applicable to housing project located in any other place in India.

❖ **Section 10(38) – Exemption of long term capital gains subject to payment of STT on acquisition**

Section 10(38) of the Income-tax Act, 1961, inter alia, provides for an exemption from tax on the income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, where such transaction is chargeable to securities transaction tax under Chapter VII of the Finance(No.2) Act, 2004.

The Finance Bill 2017 proposes to amend the said clause (38) so as to provide that any income arising from the transfer of a long term capital asset, being an equity share in a company shall not be exempted, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance(No. 2) Act, 2004.

The intent of the Government behind the proposed amendment is to prevent misuse of section 10(38) of the Act whereby some taxpayers declare their unaccounted income as exempt long-term capital gains by entering into same transactions.





### ❖ **Section 139(5) – Reduction in time limit for filing revised return**

The Finance Bill 2017 proposes to amend section 139(5) to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

### ❖ **Section 234F – Fee for delayed filing of return**

The Finance Bill, 2017 proposes to levy fees of Rs. 5,000 in case where return is furnished after the due date but on or before 31st December of the relevant assessment year and Rs. 10,000, in other cases. However, it is also proposed to restrict the fees to Rs. 1,000, where the total income does not exceed five lakh rupees.

Current provisions provide for penalty of Rs. 5,000 under section 271 F in case where return is furnished after end of relevant assessment year provided there is no reasonable cause for such delay.

The proposal is made with a view to ensure that returns are filed within the due dates specified in section 139(1). However, fees proposed under section 234F will be leviable on all assesseees who have furnished return beyond the due date specified under section 139(1) irrespective of the reason for such delay and whether all the taxes have been paid through TDS or Advance Tax.

### ❖ **Section 35AD and 43(1) – Cash payment exceeding Rs 10,000 to be disallowed**

In order to discourage cash transactions even for capital expenditure, the Finance Bill, 2017 proposes to amend section 43(1) to provide that where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost of such asset.

Similar amendment is proposed in section 35AD. Further, cash payment limit under section 40A(3) is also proposed to be reduced to Rs.10,000.

Thus, the Finance Bill 2017 proposes to disallow even the capital expenditure incurred in cash thereby restricting the amount of allowable depreciation under section 32 with effect from 1 April 2018 i.e. AY 2018-19.

## SERVICE TAX

### Budget 2017-Important Changes in Service Tax Provision of Finance Act, 1994

- The Negative List entry in respect of “services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption”, is proposed to be omitted. However, the service tax exemption on them is being continued by incorporating them in the Notification No. 25/2012ST dated 20.06.2012 i.e., general exemption.
- The definition of 'process amounting to manufacture' [Section 65B (40)] is also proposed to be omitted from the Finance Act, 1994 and is being incorporated in the general exemption notification
- The definition of 'Authority' [Section 96A(d) of the Finance Act, 1994] is being amended to provide as: 'Authority' mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962.

The definition of 'Authority' [Section 28E of the Customs Act, 1962] is being amended to provide as: “Authority” to mean the Authority for Advance Ruling as constituted under section 245O of the Income Tax Act, 1961.

- Section 96B relating to vacancies not to invalidate proceedings is being omitted in view of the provisions provided under section 245P of the Income Tax Act, 1961 provides that 'No proceeding before, or pronouncement of advance ruling by the Authority for Advance Ruling would be invalidated on the ground merely due to any vacancy or defect in the constitution of the Authority.'
- The application fee for seeking advance ruling is to be increased from Rs 2500 to Rs. 10,000 on the lines of the Income Tax Act. (Section 96C(3) of the Finance Act, 1994)
- The existing time limit is to be extending from 90 days to six months by which time the Authority shall pronounce its ruling, on the lines of the Income Tax Act. (Section 96D(6) of the Finance Act, 1994)
- A new section 96HA is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245O of the Income Tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.





## RECENT UPDATES ON GST

GST council on its 11<sup>th</sup> Meeting held on 4<sup>th</sup> March, 2017 approved the draft Central Goods and Service tax (CGST) Bill and the Draft Integrated GST (IGST) Bill. The remaining two bills namely, State goods and Services tax (SGST) Bill and the Union Territory goods and services tax (UTGST) Bill, which would be almost a replica of the CGST Act, would be taken-up for approval after their legal vetting in the next meeting of GST Council scheduled on 16 March 2017.

### **Main Features of the 2 Bills (CGST & IGST) as finalized by the GST Council:**

1. A Statewise single registration for a taxpayer for filing returns, paying taxes, and to fulfill other compliance requirements.
2. Most of the compliance requirements would be fulfilled online, thus leaving very little room for physical interface between the taxpayer and the tax official.
3. A taxpayer has to file one single return state-wise to report all his supplies, whether made within or outside the State or exported out of the country and pay the tax applicable on them.
4. Taxes which need to be paid by the assessee under GST regime can be Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Union Territory Goods and Services Tax (UTGST) and Integrated Goods and Services Tax (IGST).
5. A business entity with an annual turnover of up to Rs. 20 lakhs would not be required to take registration in the GST regime, unless he voluntarily chooses to do so to be a part of the input tax credit (ITC) chain.  
The annual turnover threshold in the Special Category States (as enumerated in Article 279A of the Constitution such as Arunachal Pradesh, Sikkim, Uttarakhand, Himachal Pradesh, Assam and the other States of the NorthEast) for not taking registration is Rs. 10 lakhs.
6. A business entity with turnover up to Rs. 50 lakhs can avail the benefit of a composition scheme under which it has to pay a much lower rate of tax and has to fulfill very minimal compliance requirements. The Composition Scheme is available for all traders, select manufacturing sectors and for restaurants in the services sector.
7. In order to prevent cascading of taxes, ITC would be admissible on all goods and services used in the course or furtherance of business, except on a few items listed in the Law.
8. To prevent lock-in of capital of exporters, a provision has been made to refund, within 7 days of filing the application for refund by an exporter, 90% of the claimed amount on a provisional basis.
9. An agriculturist, to the extent of supply of produce out of cultivation of land, would not be liable to take registration in the GST regime.
10. To provide certainty in tax matters, a provision has been made for an Advance Ruling Authority.
11. Exhaustive provisions for Appellate mechanism have been made.
12. Detailed transitional provisions have been provided to ensure migration of existing taxpayers and seamless transfer of unutilized ITC in the GST regime.
13. An anti-profiteering provision has been incorporated to ensure that the reduction of tax incidence is passed on to the consumers.
14. In order to mitigate any financial hardship being suffered by a taxpayer, Commissioner has been empowered to allow payment of taxes in installments.

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