



NEWS LETTER

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INDIA - PAKISTAN TRADE RELATION



Energy Cooperation



Import - Export



Response to Natural Calamities



Border Conflict



UPG & Associates
Chartered Accountants

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15
august

INDIA-PAKISTAN TRADE RELATIONS

Relations between India and Pakistan have been complex due to a number of historical and political events. Relations between the two countries have been defined by the violent partition of British India in 1947, the Kashmir conflict and the numerous military conflicts fought between the two nations. Consequently, even though the two South Asian nations share linguistic, cultural, geographic, and economic links, their relationship has been plagued by hostility and suspicion. There have been numerous attempts to improve the relationship—notably, the Shimla summit, the Agra summit and the Lahore summit. Additionally, the 2008 Mumbai attacks carried out by Pakistani militants resulted in a severe blow to the ongoing India-Pakistan peace talks.

ENERGY CO-OPERATION:

The greatest economic benefit of improved relations between Indian and Pakistan would occur in the shape of energy cooperation. India is one of the most rapidly growing energy market in the world and will be able to absorb new source of supply as they materialize in the region. Pakistan's potential role in fulfilling this need is not as a supplier but as a potential transit route for energy from Iran and central Asia. This would require construction of one or more new pipelines, a major capital investment that makes sense only if the political stability and economical feasibility of the project can be counted on.

IMPORT – EXPORT:

Major Items Export from India to Pakistan		Major Items Import from Pakistan to India	
1	Sugar and Sugar Confectionary	1	Edible Fruit and Nuts
2	Cotton	2	Mineral Fuels and Oils
3	Organic Chemicals	3	Salt, Sulphur, Plastering Materials, Lime and Cement
4	Man made Filaments	4	Organic Chemicals
5	Edible, Vegetables and certain Roots and Tubers	5	Cotton

RESPONSE TO NATURAL CALAMITIES:

In response to the 2001 Gujarat earthquake, Pakistani President Pervez Musharraf sent a plane load of relief supplies to India from Islamabad to Ahmedabad. That carried 200 tents and more than 2,000 blankets. Furthermore, the President called Indian PM to express his 'sympathy' over the loss from the earthquake.

India offered generous aid to Pakistan in response to the 2005 Kashmir earthquake on 8 October. Indian and Pakistani High Commissioners consulted with one another regarding cooperation in relief work. India sent 25 tonnes of relief material to Pakistan including food, blankets and medicine. Large Indian companies such as Infosys have offered aid up to \$226,000.

Border Conflict:

The Kashmir conflict is a territorial conflict primarily between India and Pakistan, having started just after the partition of India in 1947. China has at times played a minor role. India and Pakistan have fought three wars over Kashmir, including the Indo-Pakistani Wars of 1947 and 1965, as well as the Kargil War. In October 2015 Jammu and Kashmir High Court said that article 370 is "permanent" and Jammu & Kashmir did not merge with India the way other princely states merged but retained special status and limited sovereignty under Indian constitution.

INSIDE THE ISSUE:

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CHART OF FORTHCOMING DUE DATES:-

Month	Service Tax Payment	TDS Payment	P.F. payment	ESIC Payment	PT Payment/ Return
AUG	5 th / 6 th	7 th	15 th	21 st	31 st

➤ OVERVIEW :

➤ SALIENT FEATURES OF PROPOSED GSY SYSTEM

Since the Bill has been passed in Rajya Sabha, the Bill will be needed to be passed by Lok Sabha and ratified by minimum of 15 States in their respective assemblies before the President can give its assent for its enactment.

GST Council consisting of representatives from the Centre as well as State will be formed within 60 days of the enactment of the Bill. The council will make recommendations to the Union and the States on model Goods & Service Tax laws, the rates including floor rates with bands of goods & service tax, the Place of Supply rules and any other matter relating to GST as the Council may decide Reports of Joint Committee constituted by Empowered Committee of the State Finance Ministers on business processes of payment, registration refund and return under GST have been released and put in public domain for suggestions.

Given the passage of the Constitution Amendment Bill for Goods and Services Tax (GST) in the Rajya Sabha on 3 August 2016, the Government of India seems committed to replace all the levied on goods and services by the Centre and States and implement GST by April 2017. With GST, it is anticipated that the tax base will be comprehensive, as virtually all goods and services will be taxable, with minimum exemptions.

- The power to make laws in respect of supplies in the course of inter-State trade or commerce will be vested only in the Union government. States will have the right to levy GST on intra-State transactions including on services.
- Centre will levy IGST on inter-State supply of goods and services. Import of goods will be subject to basic customs duty and IGST.
- GST defined as any tax on supply of goods and services other than on alcohol for human consumption.
- Central taxes like, Central Excise duty, Additional Excise duty, Service tax, Additional Custom duty and Special Additional duty and State level taxes like, VAT or sales tax, Central Sales tax, Entertainment tax, Entry tax, Purchase tax, Luxury tax and Octroi will subsume in GST.
- Petroleum and petroleum products i.e. crude, high speed diesel, motor spirit, aviation turbine fuel and natural gas shall be subject to the GST on a date to be notified by the GST Council.
- Provision for removing imposition of entry tax / Octroi across India.

- Entertainment tax, imposed by States on movie, theatre, etc will be subsumed in GST, but taxes on entertainment at panchayat, municipality or district level to continue.
- GST may be levied on the sale of newspapers and advertisements and this would give the government's access to substantial incremental revenues.
- Stamp duties, typically imposed on legal agreements by the state, will continue to be levied by the States.
- Administration of GST will be the responsibility of the GST Council, which will be the apex policy making body for GST. Members of GST Council comprised of the Central and State ministers in charge of the finance portfolio.

Benefits of GST

GST has been envisaged as a more efficient tax system, neutral in its application and distributionally attractive. The advantages of GST are:

- Wider tax base, necessary for lowering the tax rates and eliminating classification disputes
- Elimination of multiplicity of taxes and their cascading effects
- Rationalization of tax structure and simplification of compliance procedures
- Harmonization of center and State tax administrations, which would reduce duplication and compliance costs
- Automation of compliance procedures to reduce errors and increase efficiency

Destination principle

The GST structure would follow the destination principle. Accordingly, imports would be subject to GST, while exports would be zero-rated. In the case of inter-State transactions within India, the State tax would apply in the State of destination as opposed to that of origin.

Taxes to be subsumed

GST would replace most indirect taxes currently in place such as:

Central Taxes	State Taxes
Central Excise Duty [including additional excise duties, excise duty under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955]	Value Added Tax
Service tax	Octroi and Entry Tax
Additional Customs Duty (CVD)	Purchase Tax
Special Additional Duty of Customs (SAD)	Luxury Tax
Central Sales Tax (levied by the Centre and collected by the States)	Taxes on lottery, betting & gambling
Central surcharges and cesses (relating to supply of goods and services)	State cesses and surcharges
	Entertainment tax (other than the tax levied by the local bodies)
	Central Sales Tax (levied by the Centre and collected by the States)

➤ INCOME TAX:

➤ ANALYSIS OF RULES FOR GRANT OF FOREIGN TAX CREDIT

Computation of Foreign Tax Credit ('FTC') in case of assessee's with cross border payments has been a major hassle for tax professionals. Absence of well-defined set of rules, coupled with few judicial precedents had resulted in diversified practices. The Central Board of Direct Taxes ('CBDT') by Income-tax (18th Amendment) Rules, 2016 have inserted Rule 128 to the Income-tax Rules, 1962 ('Rules') providing the rules for grant of Foreign Tax Credit. The said rules, applicable from April 1, 2017, will help provide much needed clarity in an area which was until now marked by diverse interpretations. This will help reduce the hassle in claiming credit on tax paid in foreign countries and help achieve the Government's vision for non-adversarial tax regime.

1. Eligibility to claim FTC Sub-rule 1 of the Rules provide that a resident assessee will be eligible to claim FTC if any tax has been paid by him in a country or specified territory outside India. Grant of FTC shall be allowed only in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India. The rule further provides that where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India. This rule may create certain complications where there is a mismatch in timing of taxation of a particular stream of income in India and foreign country in accordance with their respective tax laws
2. Eligible Foreign Taxes on which relief is allowed Sub-rule 2 of the Rules provide that where a Double Taxation Avoidance Agreement ('DTAA') has been entered between India and the foreign country, eligible foreign tax shall be the taxes covered under the respective DTAA. However, where no DTAA has been entered between India and the foreign country, eligible foreign tax shall mean the tax payable under the law in force in that country in the nature of income-tax referred to in clause (iv) of the Explanation to section 91 of the Act.

3. Grant of FTC

Sub-rule 3 of the Rules provide that an assessee would be allowed to claim FTC against the amount of tax, surcharge and cess payable by such assessee in India under the Act. However, it has been clarified that claim of FTC will not be allowed in respect of any sum payable by way of interest or penalty.

Sub-rule 4 of the Rules provide that no credit shall be available in respect of any amount of foreign tax or part thereof which is disputed in any manner by the assessee.

However, proviso to sub-rule 4 takes into consideration situation where the dispute in relation to foreign tax credit has settled. Proviso to sub-rule 4 provides that credit of such disputed tax shall be allowed for the year in which such income is offered to tax or assessed to tax in India if the assessee within six months from the end of the month in which the dispute is finally settled, furnishes the following:

1. evidence of settlement of dispute,
 2. evidence of discharge of such disputed foreign tax, and
 3. an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed.
4. Manner of calculating FTC

Sub-rule 5 of the Rules provide that credit of foreign tax shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country. Further, the credit allowable shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income.

5. Documents required to be furnished

For claiming FTC, assessee shall be required to furnish following documents :-

- i. a statement in Form No.67
- ii. certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee,-
 - (a) from the tax authority of foreign country; or
 - (b) from the person responsible for deduction of such tax; or
 - (c) a statement signed by the assessee if it is accompanied by :
- iii. an acknowledgment of online payment or bank counter foil or challan for payment of tax where the payment has been made by the assessee;
- iv. proof of deduction where the tax has been deducted.

➤ **COMPANY LAW**

➤ **IMPACT OF COMPANIES INCORPORATION THIRD AMENDMENT RULES, 2016 ON COMPANY INCORPORATION**

MCA through Notification dated 27/07/2016 Amended the Companies **In Rule 8(6)(n)** of Companies (Incorporation) Rules, 2014 following omission has been made:

1. **Earlier Provision:** The following words and combinations thereof shall not be used in the name of a company unless the previous approval of the Central Government has been obtained for the use of any such word or expression- Financial, Corporation and the like;

Amended Provision: The following words and combinations thereof shall not be used in the name of a company unless the previous approval of the Central Government has been obtained for the use of any such word or expression- Financial Corporation and the like;

Impact of the Amended Provision: approval of Central government required for use of word “Financial Corporation” as Comma between the words Financial Corporation has been omitted.

2. **In Rule 16(1)(m)** of Companies (Incorporation) Rules, 2014 following explanation has been added

Earlier Provision: Proof of Identity of every subscriber to the memorandum shall be filed with the Registrar.

Amended Provision: In case the subscriber is already holding a valid DIN, and the particular provided therein have been updated as on the date of application and the declaration on this effect is given in the application, the proof of identity and residence need not be attached.

Impact of the Amended Provision: There is no need to attach proof of identity in the incorporation form, if the subscriber holding din and same has been updated on MCA

3. **In Rule 16(1) (q)** of Companies (Incorporation) Rules, 2014 following omission has been made

Earlier Provision: the promoter or first director shall self attest his signature and latest photograph in Form No. INC-10.

Amended Provision: Form- INC-10 is not required to be attached.

Impact of the Amended Provision: there is no need to attach INC-10 for Director and Promoters Verification for Incorporation of Company.

4. **In Rule 26 of Companies (Incorporation) Rules, 2014** following substitution has been made

Earlier Provision: The Central Government may as and when required, notify the other documents on which the name of the company shall be printed.

Amended Provision: Every Company which has a website for conducting online business or otherwise, shall disclose/ publish its name, address of its registered office, the CIN, Tel No, Fax No. if any, email and the name of person who may be contacted in case of any queries or grievances on the landing/ home page of the said website.

Impact of the Amended Provision: It is “mandatory for the companies having website to disclose all the details mentioned below on the home page of the website:

- i) Name
 - ii) Registered Office
 - iii) CIN
 - iv) Tel No.
 - v) Fax if any
 - vi) Email ID
 - vii) Name of Person to contact for Query and Grievance
5. **In Rule 28(2) of Companies (Incorporation) Rules, 2014** following Proviso has been added:

Earlier Provision: Provided further that the shifting of registered office shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.

Amended Provision: Provided also that on completion of such inquiry, inspection or investigation as a consequence of which no prosecution is

envisaged or no prosecution is pending, shifting of registered office shall be allowed.

Impact of the Amended Provision: Registered office shall be shifted after completion of inquiry, inspection or investigation

➤ SERVICE TAX

➤ SERVICE TAX UPDATES

Exclusion of some services provided by Government to business entity from Mega Exemption Notification No. 26/2016 ST dated 20.05.2016

By this notification CBEC has amended mega exemption notification to provide that following services provided by Government or local authority to a business entity shall be taxable irrespective of the turnover of business entity ;

- a. Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than government.
- b. Service in relation to aircraft or a vessel, inside or outside the precincts of a port or an airport;
- c. Transport of goods or passengers;
- d. Services by way of renting of immovable property

Notification No. 32/2016-ST, 33-2016-ST & 34-2016 ST DTD 6th June, 2016

The Legal services provided by the Senior Advocates has come under Forward Charge Mechanism with effect from 01-04-2016 against which various petitions were filed in various High Courts. To resolve the problem, the Central Government has partially rolled back in the decision and has issued following three notification on 6th June, 2016

1. **Notification No. 32/2016 ST** : Seeks to amend Notification NO. 25/2012 ST dated 20.06.2012 to exempt services provided by a Senior Advocate by way of legal services to any person other than a business entity; or a business entity with a turnover up to rupees ten lakh in the preceding financial year.
2. **Notification No. 33/2016-ST** : Seeks to amend Service Tax Rules, 1994 to stipulate reverse charge mechanism for services provided by senior advocates, that is tax is to be paid by the recipient of service and if the senior advocate is engaged by another lawyer, the Service Tax is to be paid by the litigant.

3. **Notification No. 34/2016-ST** : Seeks to amend Notification No. 30/2012 dated 20.06.2012 to stipulate 100% payment of service tax by a business entity as the recipient of the service provided by senior advocates.

➤ **FEMA**

- *Foreign Exchange Management (Transfer or issue of security by a Person Resident outside India) (Seventh Amendment) Regulations, 2016*

Vide this amendment a new regulation – Regulation 10A has been inserted in Notification No. FEMA/20/2000-RB dated 3rd May 2000- Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000. This Regulation 10A permits deferment of 25% of the total consideration for a period of 18 months with respect to payment for transfer of shares between a resident and non-resident.

The said Regulation is as under :-

“10A. In case of transfer of shares between a resident buyer and a non-resident seller or vice-versa, not more than twenty five percent of the total consideration can be paid by the buyer on a deferred basis within a period not exceeding eighteen months from the date of the transfer agreement. For this purpose, if so agreed between the buyer and the seller, an escrow arrangement may be made between the buyer and the seller for an amount not more than twenty five percent of the total consideration for a period not exceeding eighteen months from the date of the transfer agreement or if the total consideration is paid by the buyer to the seller, the seller may furnish an indemnity for an amount not more than twenty five percent of the total consideration for a period not exceeding eighteen months from the date of the payment of the full consideration.

Provided the total consideration finally paid for the shares must be compliant with the applicable pricing guidelines.”

UMESH P GOSAR & ASSOCIATES

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‘UPGA TEAM comprises of professionals with rich expertise, each member focusing on specific area of services’

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- Audit, Review and Compilation
- Financial Projections and Forecast
- Interim Reporting to 3rd Party users.

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- Tax Planning for individuals and corporate.
- Indian and International Taxation.
- Corporate Reorganization.
- Appeals Process.
- Tax Audit of subsidiaries of Foreign Companies.

Cross Border Assignments:

- Foreign Collaboration.
- Setting up o -shore Companies.
- Import Export consultancy.
- Cross Border Transactions and Business Valuation.
- Regular compliances under EXIM Policy

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