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A Sharp Move towards - GST

Gaurav Jain- 2016

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Things you must know About GST

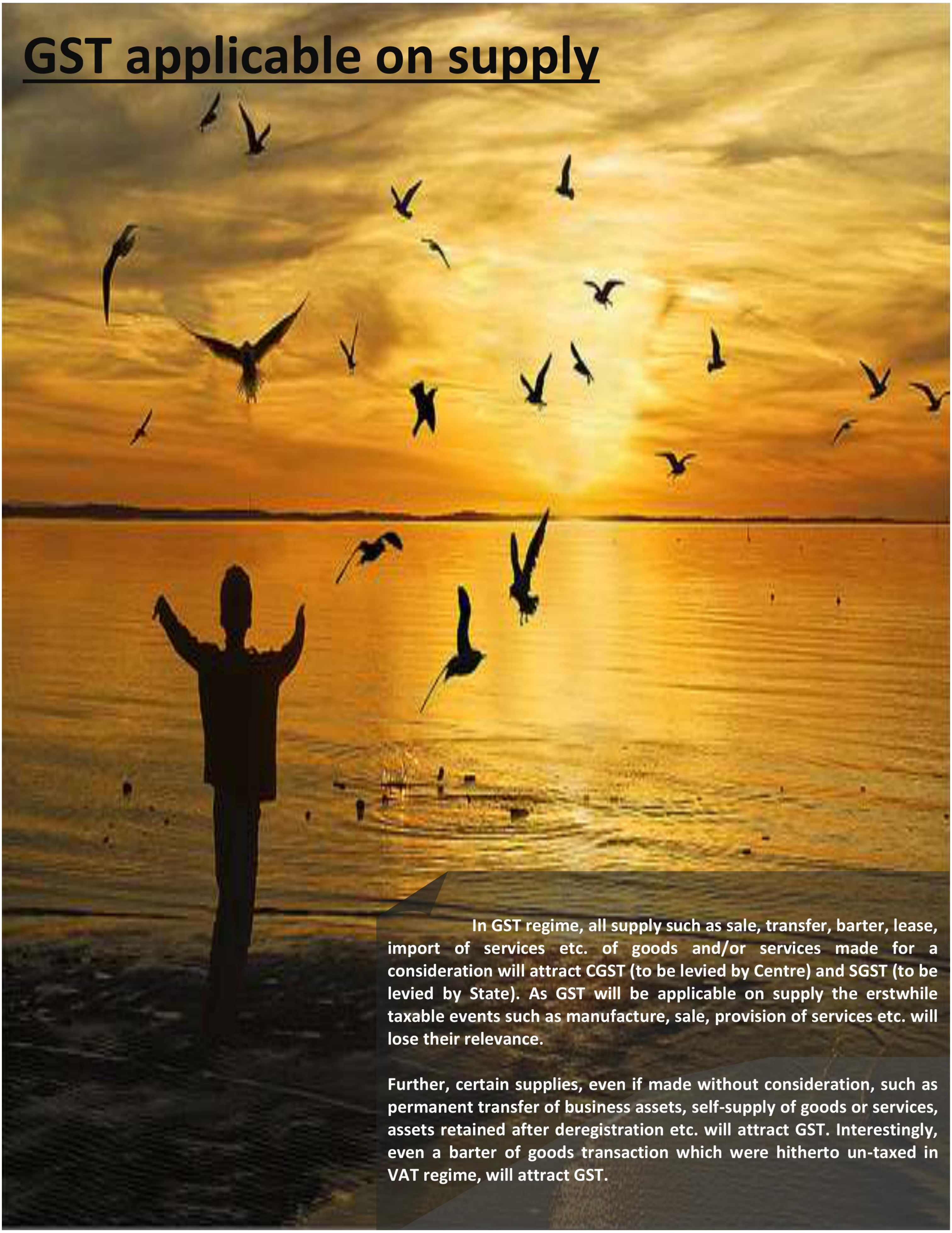
Rajput Jain & Associates
Chartered Accountants
www.carajput.com

What is GST?

GST is abbreviation for Goods and Service Tax. GST / VAT is a consumption based tax wherein the basic principle is to tax the value addition at the each business stage. To achieve this, tax paid on purchases is allowed as a set off/ credit against liability on output/income.
GST is levied on all transaction of goods and services. Thus, in principle, GST should not differentiate between goods and services.
The term 'GST' is defined in article 366 (12A) of the Constitution of India to mean "any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption".

Article 366 (26A) of the Constitution of India provides that "services means anything other than goods". Therefore, all services will be covered under the scope of GST unless "negative list of services" are separately notified.

GST applicable on supply



In GST regime, all supply such as sale, transfer, barter, lease, import of services etc. of goods and/or services made for a consideration will attract CGST (to be levied by Centre) and SGST (to be levied by State). As GST will be applicable on supply the erstwhile taxable events such as manufacture, sale, provision of services etc. will lose their relevance.

Further, certain supplies, even if made without consideration, such as permanent transfer of business assets, self-supply of goods or services, assets retained after deregistration etc. will attract GST. Interestingly, even a barter of goods transaction which were hitherto un-taxed in VAT regime, will attract GST.

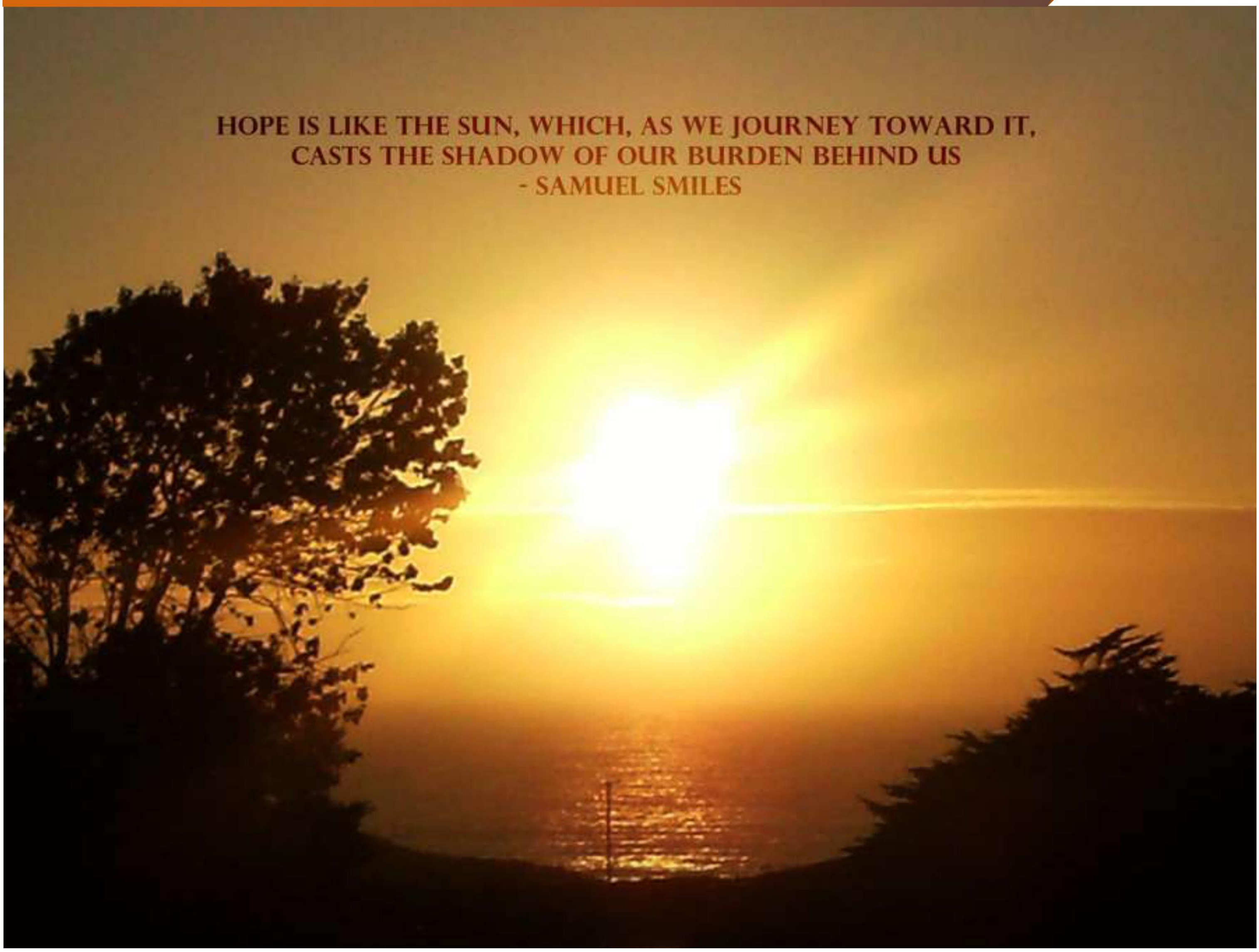
GST payable as per time of supply

The liability to pay CGST / SGST will arise at the time of supply as determined for goods and services. In this regard, separate provisions prescribe what will time of supply for goods and services. The provisions contemplate payment of GST at the earliest for:-

- Goods- Removal of goods or receipt of payment or issuance of invoice or date on which buyer shows receipt of goods.

- Services Issuance of invoice or receipt of payment or date on which recipient shows receipt of services.

It can be observed that there are many parameters in determining time of supply. Thus, determining the time of supply and further maintaining reconciliation between revenue as per financials and as per GST rules could be a major challenge to meet.



Determining Place of Supply could be the key

At present inter-State supply of goods attract Central Sales Tax. Now, its provides that an inter-State supply of goods and/ or services will attract IGST ((i.e. CGST plus SGST). Thus, it would be crucial to determine whether a transaction is a intra-State or Inter-State as taxes will be applicable accordingly. In this regard, the draft GST law provides separate provisions which will help an assessee determine the place of supply for goods and services.

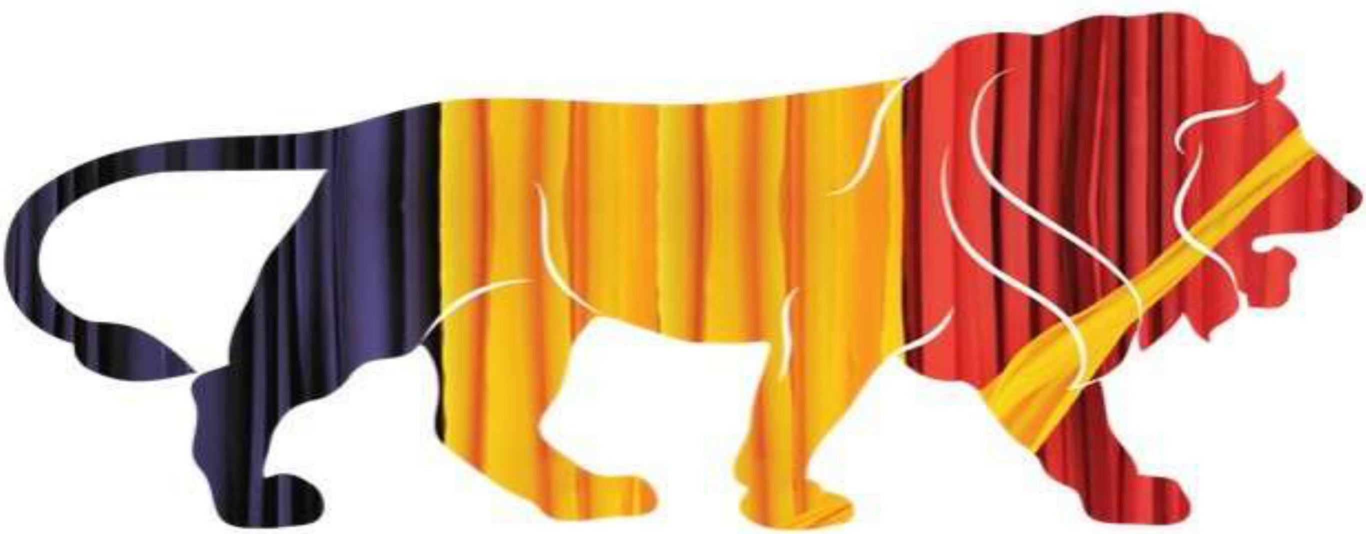
Typically for goods the place of supply would be location where the good are delivered. Whereas for services the place of supply would be location of recipient. However, there are multiple scenarios such as supply of services in relation to immovable property etc. wherein this generic principle will not be applicable and specific rule will determine the pace of supply. Thus, the business will have to scroll through all the place of supply provisions before determining the place of supply.

Valuation in GST

GST would be payable on the transaction value. Transaction value is the price actually paid or payable for the said supply of goods and/or services between un-related parties. The transaction value is also said to include all expenses in relation to sale such as packing, commission etc. Even subsidies linked to supply will be includable. As regards discounts/ incentives, it will form part of transaction value if it is allowed after supply is effected.

However, discounts/ incentives given before or at the time of supply will be permissible as deduction from transaction value.

The law also provides for Valuation Rules to help determine value in certain cases. The Valuation Rules appear to be drafted by taking few provisions from current Valuation provisions in vague in Excise (for e.g. concept of transaction value), Service Tax (for e.g. concept of pure agent) and Customs (for e.g. concept of goods of like kind and quality).



Input tax credit in GST

Current CENVAT Credit regime disallows CENVAT Credit on various services such as motor vehicle related services, catering services, employee insurance, construction of civil structure etc. Similarly, State VAT laws restrict input tax credit in respect of construction, motor vehicle etc. Current, this denial of credits leads to un-necessary cost burden on assessee.

It was expected that in GST regime, seamless credit will be allowed to business houses without any denial or any restrictions except say goods / services which are availed for personal use than official use (something similar to Unite Kingdom VAT law).

However, surprisingly, inter-alia, aforesaid credit would continue to be not available (in respect of both goods and services). Further, credit is proposed to be denied on goods and/or services used for private or personal consumption, to the extent they are so consumed. This continuation of denial will lead to substantial tax cascading (as rate of GST will be higher that the current rate of service tax!). Also, another round of litigation as interpretation issues will crop up while determining eligibility or otherwise of GST paid on personal consumptions such as business lunch with clients.

Inter-State supply of goods for consideration to attract additional tax

Draft GST law provides that an additional tax upto 1% will be levied by Centre on inter State supply of goods (and not on services) made for consideration. Thus, effectively inter-State branch transfers will not attract this 1% additional Tax. This additional tax will be assigned to States from where the supply of goods originates. This additional tax will be applicable for a period of two years and could be extended further by GST Council. The credit of this additional levy will not be available as thus it will be a cost in the supply chain.

There would be 33 GST laws in India

In GST regime, there will be one CGST law and 31 SGST law for each of the States including two Union Territories and one IGST law governing inter-State supplies of goods and services.

Rate of GST is not yet specified in the draft GST law

The rate of GST is not specified in draft GST law. However, various News reports suggest that the Revenue Neutral Rate (RNR) as proposed by the Chief Economic Advisor Shri. Arvind Subramanian could be 17%-18%. Further, there could be lower rate (of 12%-14%) for concessional goods and higher rate (upto 40%) for luxury goods (such as luxury cars, tobacco products etc.).

Time limit for show cause notices (SCN)

Time limit for issuance of SCN is generic cases (i.e. other than fraud, suppression etc.) would be three years and in fraud, suppression etc. cases it would be five years. Its pertinent to note that the time limit prescribed for issuance of SCN for generic cases is much more than the current time limit prescribe in excise law (i.e. 12 months) and service tax legislation (i.e. 18 months). This will give much leeway to the Authorities while issuing SCN and sleepless night to assessees for three years!


We needs burning Desire to
implement GST in India

Reports on GST

The Government has placed in the public domain four reports on key business processes i.e. registration, payment, refunds and returns in GST regime. From these four reports one can fairly gauge the broad structure and process in GST regime.

1. Report on returns in GST regime

Every registered assessee will be required to file returns (including NIL returns). However, persons exclusively dealing in exempted / Nin-rated or non-GST goods or services would neither obtain registration nor file returns.

2. Report on GST Registration

This report provides that the taxable person in the GST regime will be required to take

State specific single registration for Central GST (CGST), Integrated GST (IGST) and State GST (SGST) purposes (multiple registrations in a State for business verticals would also be permitted). In GST regime the registration number would be a PAN based 15 digit alpha numeric registration number.

3. Report on GST Payments

This report provides that the taxable person will be required to make payment of CGST, SGST, IGST and Additional Tax through internet banking. Over the counter (OTC)

payment could be permissible only for payments up to Rs. 10,000/- per challan.

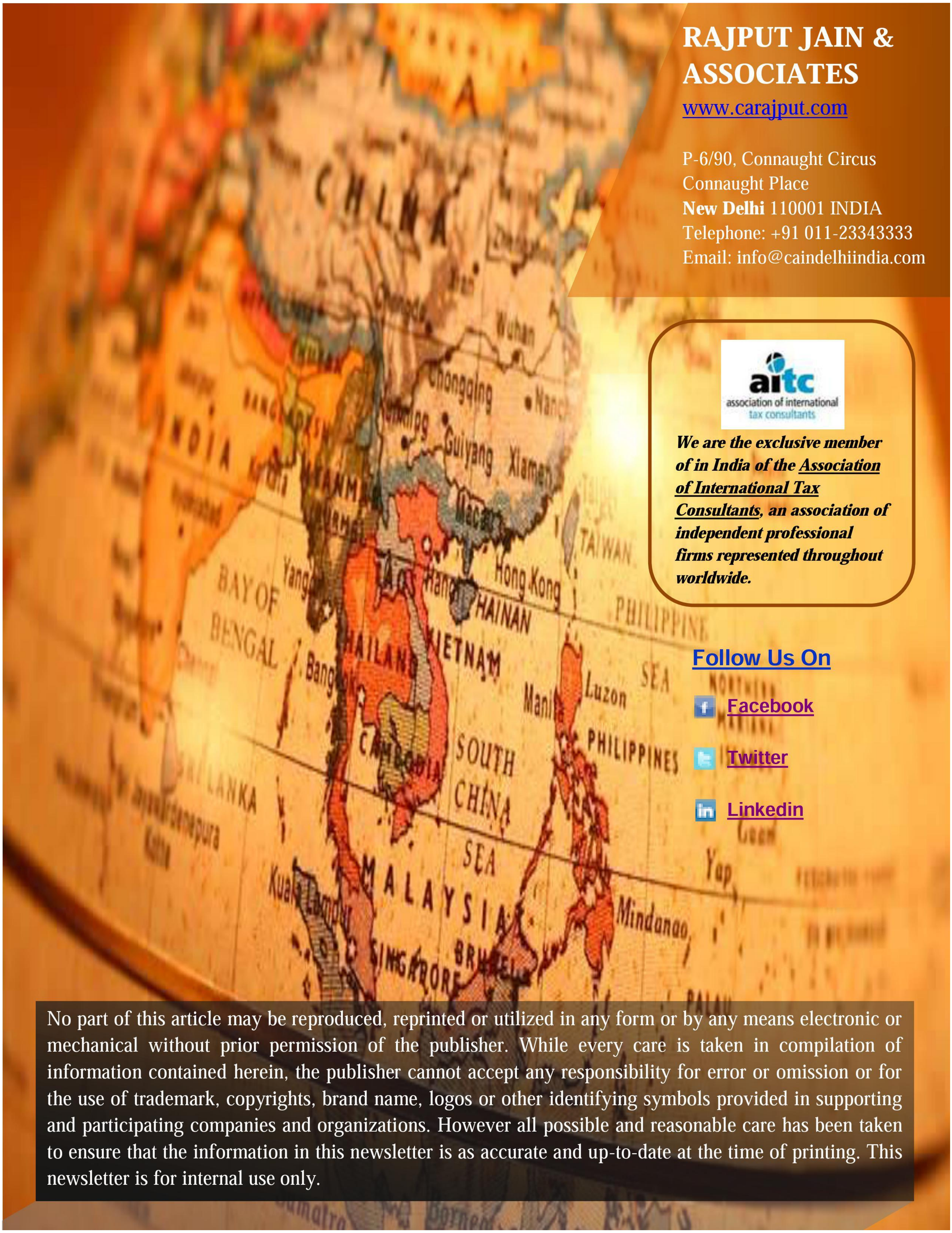
4. Report on GST refunds

This report provides that in ten situations such as exports, excess payment by mistake, refund of pre-deposit, refund to international tourists etc. wherein the taxpayer can claim refund of GST paid. For export of goods, the report suggests that the exporter should procure the goods on payment of appropriate GST and then claim refund of the same from respective Governments.

Old provisions re-introduced

Most of the current provisions such as reverse charge, tax deduction, pre-deposit, prosecution (!), arrest (!) etc. have been continued in the proposed draft GST law.

The new GST law seems to be a new wine in old bottle as most of the current inefficiencies has been continued in the proposed GST law.



RAJPUT JAIN & ASSOCIATES

www.carajput.com

P-6/90, Connaught Circus
Connaught Place
New Delhi 110001 INDIA
Telephone: +91 011-23343333
Email: info@caindelhiindia.com

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