

NOTE ON INDIAN GOODS & SERVICES TAX

Recently several Members whose vessels had called at Indian ports for discharge of cargo had faced issues regarding the levy of service tax and payment thereof. On 1st July 2017, the Central Goods & Services Tax Act 2017 will come into force and from which date Goods & Services Tax (commonly referred to as GST) will be levied instead of Service Tax.

The roll out of the Central Goods & Services Act 2017, will repeal the existing indirect tax structure in India and replace the following taxes currently levied and collected by the Centre:

- a. Central Excise Duty;
- b. Duties of Excise (Medicinal and Toilet Preparations);
- c. Additional Duties of Excise (Goods of Special Importance);
- d. Additional Duties of Excise (Textiles and Textile Products);
- e. Additional Duties of Customs (commonly known as CVD);
- f. Special Additional Duty of Customs (SAD);
- g. Service Tax;
- h. Cesses and surcharges insofar as they relate to supply of goods or services.

GST is based on the principle of destination based consumption taxation as against the principle of origin based taxation which was the base of previous tax regimes. Under GST there are four tax rates namely 5%, 12%, 18% and 28%. The tax rates for different goods and services has been finalized and some goods and services are under the list of exempt items. The liability to pay GST is that of the supplier of

goods or services however, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Perhaps the most notable feature of GST is that it provides for a system of Input Tax Credit which will allow sellers to claim the tax already paid, so that the final liability on the end consumer is decreased and hence, the end consumer will not pay tax on tax.

The good news for Foreign Shipping companies is twofold (i) GST is not applicable to foreign shipping companies, and (ii) the rate of GST is 5 % on transport of goods in a vessel including services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India and falls under reverse charge mechanism and liability to pay GST is that of the recipient i.e. Importer as defined under Section 2 (26) of the Customs Act, 1962^[1].

^[1] Section 2 (26) of the Indian Customs Act, 1962 - "Importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.