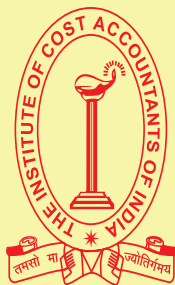


JANUARY, 2019

TAX Bulletin



VOLUME - 31



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders.

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FROM THE DESK OF THE CHAIRMAN

“Learn from yesterday, live for today, hope for tomorrow.”

- Albert Einstein

Namaskar and Best wishes.

I would like to start by wishing all the members and readers “A very happy and prosperous New Year”. May this year bring in health, wealth and new opportunities to you.

We had a very successful 2018 at Tax Research Department. Thanks to all your love and support. Your criticisms have been the building stones. I whole heartedly thank every one of you for your contributions and solicit the same in the coming year as well.

The last spell of the year was awesome and it ended with the successful completion of the National seminar on Taxation organised jointly by the Tax Research Department and the Bhubaneswar Chapter.

More than 600 delegates such as Corporate Leaders and Industry Associations, Government Departments, Regulators, Industrial Houses, CMA Professionals & Other Professional Bodies, Banks, Guests/Invitees, Representatives from Press and Electronic Media and Financial Institutions have successfully participated in the Seminar making it highly appreciated and successful.

Encouragement through participation from stalwarts like **His Excellency, Hon’ble Governor of Odisha Professor Shri Ganeshi Lal, Shri Surjya Narayan Patro, Hon’ble Cabinet Minister, Co-Operation, Food Supplies & Consumer Welfare, Govt of Odisha, Shri Bhartruhari Mahtab, Hon’ble Member of Parliament, Lok Sabha, Odisha and Shri Shashi Bhusan Behera, Hon’ble Cabinet Minister, Finance, Excise and Public Enterprise, Govt. of Odisha** has touched us deeply and motivated our fraternity to work harder and strive towards perfection.

I would again like to thank each one of the Resource Persons, Knowledge contributors and members of Tax Research Department for your zeal, dedication and commitment. This year, together we would leave no stone unturned to achieve success.

Happy New Year..!!

CMA Niranjana Mishra

Chairman - Taxation Committee

2nd January 2019

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Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to

trd@icmai.in /research.ad1@icmai.in

ANALYTICAL APPROACH OF GSTR – 9C

TEAM TRD

GSTR-9C is a reconciliation statement which must be filed by those Taxpayers whose aggregate turnover in a financial year exceeds Rs 2 Crores and it is to be certified by a Cost Accountant or Chartered Accountant.

This Audit Report must be digitally signed by the GST Auditor and the auditor must has to report all discrepancies or liabilities in GST returns during the financial year, if any.

Due Date –

Due date to file GSTR – 9C was 31.12.2018. Later the date was extended up to 31.03.2019 as per press release dated 07.12.2018. However, as per recommendations of 31st GST Council Meeting, the date to file GSTR – 9C has been extended up to 30.06.2019.

Penalty for Non – Filing of GSTR-9C within due date

As per the penalty provisions, the taxpayer has to pay Rs. 200 per day as a penalty (Rs. 100 SGST + Rs. 100 CGST). However, the total penalty cannot exceed 0.25% of the total turnover on which the said penalty is being levied.

Analysis of GSTR -9C

Part I comprises of Basic Details like Financial Year for which GSTR 9C is being filed, GSTIN Number, Legal Name and Trade Name of the Entity.

| Pt. I | Basic Details | |
|-------|---|---------|
| 1 | Financial Year | |
| 2 | GSTIN | |
| 3A | Legal Name | < Auto> |
| 3B | Trade Name (if any) | <Auto> |
| 4 | Are you liable to audit under any Act? <<Please specify>> | |

Part II – In this part, reconciliation between the annual turnover declared in the audited Annual Financial Statement and the turnover as declared in the Annual Return furnished in FORM GSTR-9 is to be done.

Part II (5)

- Reconciliation of Gross Turnover is to be made.

| 5 | Reconciliation of Gross Turnover | |
|---|--|--------|
| A | Turnover (including exports) as per audited financial statements for the State / UT (For multi-GSTIN units under same PAN the turnover shall be derived from the audited Annual Financial Statement) | |
| B | Unbilled revenue at the beginning of Financial Year | (+) |
| C | Unadjusted advances at the end of the Financial Year | (+) |
| D | Deemed Supply under Schedule I | (+) |
| E | Credit Notes issued after the end of the financial year but reflected in the annual return | (+) |
| F | Trade Discounts accounted for in the audited Annual Financial Statement but are not permissible under GST | (+) |
| G | Turnover from April 2017 to June 2017 | (-) |
| H | Unbilled revenue at the end of Financial Year | (-) |
| I | Unadjusted Advances at the beginning of the Financial Year | (-) |
| J | Credit notes accounted for in the audited Annual Financial Statement but are not permissible under GST | (-) |
| K | Adjustments on account of supply of goods by SEZ units to DTA Units | (-) |
| L | Turnover for the period under composition scheme | (-) |
| M | Adjustments in turnover under section 15 and rules thereunder | (+/-) |
| N | Adjustments in turnover due to foreign exchange fluctuations | (+/-) |
| O | Adjustments in turnover due to reasons not listed above | (+/-) |
| P | Annual turnover after adjustments as above | <Auto> |
| Q | Turnover as declared in Annual Return (GSTR9) | |
| R | Un-Reconciled turnover (Q - P) | AT1 |

Part II (6) and Part II (8)

- Reasons of Non Reconciliation of the turnover and taxable turnover between the audited financial statements and the annual return are to be reported in Table 6 and 8 of Form GSTR9C respectively.
- Relationship among Table 6, Table 8 & Table 11— The additional amount to be paid arising due to above Non Reconciliation is to be disclosed in Table 11.

| | | |
|---|---|----------|
| 6 | Reasons for Un - Reconciled difference in Annual Gross Turnover | |
| A | Reason 1 | <<Text>> |
| B | Reason 2 | <<Text>> |
| C | Reason 3 | <<Text>> |

| | | |
|---|--|----------|
| 8 | Reasons for Un - Reconciled difference in taxable turnover | |
| A | Reason 1 | <<Text>> |
| B | Reason 2 | <<Text>> |
| C | Reason 3 | <<Text>> |

Part II (7)

- The table is used for reconciliation of taxable turnover from the audited annual turnover after adjustments with the taxable turnover declared in annual return (GSTR-9).

| | | |
|---|--|--------|
| 7 | Reconciliation of Taxable Turnover | |
| A | Annual turnover after adjustments (from SP above) | <Auto> |
| B | Value of Exempted, Nil Rated, Non-GST supplies, No-Supply turnover | |
| C | Zero rated supplies without payment of tax | |
| D | Supplies on which tax is to be paid by the recipient on reverse charge basis | |
| E | Taxable turnover as per adjustments above (A-B-C-D) | <Auto> |
| F | Taxable turnover as per liability declared in Annual Return (GSTR9) | |
| G | Unreconciled taxable turnover (F-E) | AT 2 |

Part III - Reconciliation of tax paid

Part III (9) –

- Reconciliation is to be made through calculating the tax under Forward Charge as well as reverse charge. Reconciliation to be done for-
- Total turnover and Taxable turnover
- Output tax liability
- Liability under reverse charge
- Any additional tax liability that occurs either under forward charge or reverse charge is to be calculated rate wise.
- The amount paid as output tax liability computed for both point (I) and (II) above and tax computed under reverse charge as per point (III) is required to be disclosed and reconciled separately between Form GSTR 3B and the audited financial statements in Table 9.
- The demand of tax payable is to be disclosed in Table 9 on a rate-wise basis.

| Pt. III | Reconciliation of tax paid | | | | | |
|---------|--|---------------|-------------|--------------------|----------------|---------------------|
| 9 | Reconciliation of rate wise liability and amount payable thereon | | | | | |
| | | | Tax payable | | | |
| | Description | Taxable Value | Central tax | State tax / UT tax | Integrated Tax | Cess, if applicable |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| A | 5% | | | | | |
| B | 5% (RC) | | | | | |
| C | 12% | | | | | |
| D | 12% (RC) | | | | | |
| E | 18% | | | | | |
| F | 18% (RC) | | | | | |
| G | 28% | | | | | |
| H | 28% (RC) | | | | | |
| I | 3% | | | | | |
| J | 0.25% | | | | | |
| K | 0.10% | | | | | |
| L | Interest | | | | | |
| M | Late Fee | | | | | |
| N | Penalty | | | | | |
| O | Others | | | | | |
| P | Total amount to be paid as per tables above | | <Auto> | <Auto> | <Auto> | <Auto> |
| Q | Total amount paid as declared in Annual Return (GSTR 9) | | | | | |
| R | Un-reconciled payment of amount | | | | PT 1 | |

Part III (10) –

- Non Reconciliation of the tax paid (both under forward and reverse charge) between the audited financial statements and the annual return is to be reported in Table 10.
- Relationship between Table 10 & Table 11—The additional amount to be paid arising due to above Non Reconciliation is to be disclosed in Table 11.

| 10 | Reasons for un-reconciled payment of amount | |
|----|---|----------|
| A | Reason 1 | <<Text>> |
| B | Reason 2 | <<Text>> |
| C | Reason 3 | <<Text>> |

Part III (11) –

- Mismatch between the books of accounts and the annual return may occur in the turnover, tax paid or the input tax credit.
- Additional Tax Liability arising due to non-reconciliation between the turnover or the tax liability (including reverse charge) will have to be reported in Table 11.
- Any additional amount arising at the time of calculation of (a) Total turnover and Taxable turnover (b) Output tax liability (c) Liability under reverse charge is to be disclosed in Table 11.
- Rate-wise breakup of additional tax payable will have to be shown in Table 11.
- Interest is arising at the time of filing 3B for the following two reasons-
- If any tax liability related to a particular tax period is not disclosed in 3B in that Period, rather disclosed in subsequent period.
- Delay to file GSTR-3B
- The auditor has to compute such additional interest liability that may arise due to any of the above situations and those are to be disclosed in Table 11.
- Penalty can be imposed if the taxable person takes or utilizes input tax credit without actual receipt of goods or service. This penalty amount which is payable by the taxpayer is to be disclosed in Table 11.

| | | | | | | |
|----|---|---------------|-------------------------|--------------------|----------------|---------------------|
| 11 | Additional amount payable but not paid (due to reasons specified under Tables 6,8 and 10 above) | | | | | |
| | | | To be paid through Cash | | | |
| | Description | Taxable Value | Central tax | State tax / UT tax | Integrated tax | Cess, if applicable |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| | 5% | | | | | |
| | 12% | | | | | |
| | 18% | | | | | |
| | 28% | | | | | |
| | 3% | | | | | |
| | 0.25% | | | | | |
| | 0.10% | | | | | |
| | Interest | | | | | |
| | Late Fee | | | | | |
| | Penalty | | | | | |
| | Others (please specify) | | | | | |

Part IV - Reconciliation of Input Tax Credit (ITC)

Part IV (12) –

- Reconciliation of Net Input Tax Credit (ITC) is calculated in this table.

| Pt. IV | Reconciliation of Input Tax Credit (ITC) | | |
|--------|--|-----|--------|
| 12 | Reconciliation of Net Input Tax Credit (ITC) | | |
| A | ITC availed as per audited Annual Financial Statement for the State/ UT (For multi-GSTIN units under same PAN this should be derived from books of accounts) | | |
| B | ITC booked in earlier Financial Years claimed in current Financial Year | (+) | |
| C | ITC booked in current Financial Year to be claimed in subsequent Financial Years | (-) | |
| D | ITC availed as per audited financial statements or books of account | | <Auto> |
| E | ITC claimed in Annual Return (GSTR9) | | |
| F | Un-reconciled ITC | | ITC 1 |

Part IV (13) –

- Non reconciliation of the credits which have been booked in one financial year and claimed in the another financial year regarding audited financial statements and the annual return is to be disclosed here.
- There may be difference in the amount of Input Tax Credit between GSTR 3B and audited financial statements .This difference is to disclosed here.

| | | |
|----|---|----------|
| 13 | Reasons for un-reconciled difference in ITC | |
| A | Reason 1 | <<Text>> |
| B | Reason 2 | <<Text>> |
| C | Reason 3 | <<Text>> |

Part IV (14) –

- This table is for reconciliation of ITC declared in the Annual Return (GSTR9) against the expenses booked in the audited Annual Financial Statement or books of account.
- This is only an indicative list of heads under which expenses are generally booked. Taxpayers may add or delete any of these heads but all heads of expenses on which GST has been paid / was payable are to be declared here.

| 14 | Reconciliation of ITC declared in Annual Return (GSTR9) with ITC availed on expenses as per audited Annual Financial Statement or books of account | | | |
|----|--|-------|---------------------|--------------------------------|
| | Description | Value | Amount of Total ITC | Amount of eligible ITC availed |
| | 1 | 2 | 3 | 4 |
| A | Purchases | | | |
| B | Freight / Carriage | | | |
| C | Power and Fuel | | | |
| D | Imported goods (Including received from SEZs) | | | |
| E | Rent and Insurance | | | |
| F | Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples | | | |
| G | Royalties | | | |
| H | Employees' Cost (Salaries, wages, Bonus etc.) | | | |
| I | Conveyance charges | | | |
| J | Bank Charges | | | |
| K | Entertainment charges | | | |
| L | Stationery Expenses (including postage etc.) | | | |
| M | Repair and Maintenance | | | |
| N | Other Miscellaneous expenses | | | |
| O | Capital goods | | | |
| P | Any other expense 1 | | | |
| Q | Any other expense 2 | | | |
| R | Total amount of eligible ITC availed | | | <<Auto>> |
| S | ITC claimed in Annual Return (GSTR9) | | | |
| T | Un-reconciled ITC | | | ITC 2 |

Part IV (15) –

- Non reconciliation of the credits between the head-wise expenses reported in the audited financial statements (in Table 14) and in the annual return is to be reported here.
- There may be difference in the amount of Input Tax Credit between GSTR 3B and audited financial statements. This difference is to be disclosed here also.
- If the input tax credit is higher as claimed in Form GSTR 3B than the audited financial statements, then additional liability of making the payment of extra credit will be arisen which is to be disclosed in Table 16 also.

| 15 | Reasons for un - reconciled difference in ITC | |
|----|---|----------|
| A | Reason 1 | <<Text>> |
| B | Reason 2 | <<Text>> |
| C | Reason 3 | <<Text>> |

Part IV (16) –

- Relationship among Table 13, Table 15 & Table 16-The reasons of non-reconciliation of input tax credit between the audited financial statements and annual returns will be specified in Table 13 & Table 15.
- Additional tax amount to be paid arising due to such non-reconciliation of input tax credit is to be reported here.
- In case of filing GSTR-3B, Interest is arising for the following reasons –
Any input tax credit which is eligible in a particular tax period but the same has been taken in GSTR 3B in an earlier period
Any ineligible input tax credit has been subsequently reversed which was taken wrongly earlier.
Lower amount of reversal of credit was made earlier and the balance has been reversed in Form GSTR3B in a subsequent period
For any other reasons regarding input tax credit Interest may also arise.
- Auditor has to compute the liability of Interest arising for the above situations & that is to be disclosed in Table 16.

| 16 | Tax payable on un-reconciled difference in ITC (due to reasons specified in 13 and 15 above) | |
|----|--|----------------|
| | Description | Amount Payable |
| | Central Tax | |
| | State/UT Tax | |
| | Integrated Tax | |
| | Cess | |
| | Interest | |
| | Penalty | |

Part V Auditor's recommendation on additional Liability due to non-reconciliation

- Additional Tax Liability reported in Table 11 & Table 16 is to be summarized and reported in Part V
- Rate wise breakup of additional tax payable will be shown in auditor's recommendation in Part V.
- Additional amount payable for extra credit taken is to be reported in Part V.
- Additional Interest liability & penalty are to be reported in Part V also.
- Some other relevant Documents for GSTR-9C
- Details for Turnover during April 2017 - June 2017
- Details of service contracts for which revenue recognized but invoice is not issued
- Details of transactions which are in nature of deemed supply and treated in GST but ignored in AAFS (transfer from SEZ units to DTA units, branch transfer, cross charge etc.)
- Credit Notes related to FY 2017-18 shown in GSTR-1 of FY 2018-19, but that credit note has been considered in FY 2017-18 for AAFS and in GSTR-9 of FY 2017-18
- Discounts allowed and/or Credit Notes issued and treated as reduction in Revenue in AAFS but not considered in GST as per Sec 15(3) and Sec 34
- Turnover during Composition Scheme
- Adjustments in Transaction Value to arrive at Taxable Value of Supply as per Section 15 and valuation of specified transactions as per Valuation Rules (including foreign exchange fluctuations)

| Pt. V | Auditor's recommendation on additional Liability due to non-reconciliation | | | | |
|---|--|-------------------------|--------------------|----------------|---------------------|
| | | To be paid through Cash | | | |
| Description | Value | Central tax | State tax / UT tax | Integrated tax | Cess, if applicable |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 5% | | | | | |
| 12% | | | | | |
| 18% | | | | | |
| 28% | | | | | |
| 3% | | | | | |
| 0.25% | | | | | |
| 0.10% | | | | | |
| Input Tax Credit | | | | | |
| Interest | | | | | |
| Late Fee | | | | | |
| Penalty | | | | | |
| Any other amount paid for supplies not included in Annual Return (GSTR 9) | | | | | |
| Erroneous refund to be paid back | | | | | |
| Outstanding demands to be settled | | | | | |
| Other (Pl. specify) | | | | | |

The GSTR-9C can be certified by the same CMA or CA who conducted the GST audit or it can be also certified by any other CMA or CA who did not conduct the GST Audit for that particular GSTIN.

The difference between both is that in case the CMA or CA certifying the GSTR-9C did not conduct the GST audit, he must has to base an opinion on the Books of Accounts audited by another CMA or CA in the reconciliation statement.

GSTR -9C is obligatory for taxpayers having turnover more than Rs. 2 Crores to avoid payment of unanticipated tax dues to the Government.



REJECTION OF BOOKS OF ACCOUNT BY AO – A STUDY

Prabhakar K S
Proprietor – Shree Tax Chambers

Books of account of an assessee are a must for assessment proceedings. The Income Tax Act, 1961, The Income Tax Rules, 1962 contain elaborate provisions with respect to maintenance of books of account and number of Income computation and disclosure Standards. The assessee as well as the Assessing Officer are bound to keep them in mind while completing their respective statutory duties in order to minimize rejection of books accounts and its consequences.

Introduction

1. Section 145 of the Income Tax Act 1961, provides that income chargeable under the head "Profit & Gains of Business or Profession or Income from other sources", subject to accounting standards as notified by the central government (i.e., Income Computation and Disclosure Standards or in short "ICDS") shall be computed in accordance with either cash or mercantile system of accounting.

Prior to 1st April 1997: The said Section allowed an assessee to follow either the cash or mercantile or the hybrid system which has elements of both aforesaid methods.

After 1st April 1997: Since the hybrid system does not reflect the correct income, the said section has been amended vide Finance Act 1995 w.e.f 01.04.1997. According to amendment income chargeable under the head "Profit & Gains of Business or Profession or Income from other sources" shall be computed only in accordance with either cash system or mercantile or accrual system of accounting. Accordingly, the amendment will be applicable from the assessment year 1997-98 onwards.

What are Books of Account?

2. According to P. Ramanatha Aiyar's Concise Law Dictionary, unbound sheets of paper in whatever quantity, though filled up with one continuous account are not books of account. The books of account signify a collection of sheets of paper bound together with the intention that such binding shall be permanent and the papers used shall be collectively in one volume.

According to Section 2(12A) of the Income Tax Act, 1961, books or books of account, include ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data.

The Hon'ble Income Tax Appellate Tribunal, Delhi Bench, in Brij Lal Goyal v. Asstt. CIT [2004] 88 ITD 413 held that the Books of Account mean those books of account whose main object is to provide credible data and information to file the tax returns.

Interestingly, Section 145 does not specify any set of accounts to be maintained by an assessee. Also, Rule 6F of Income Tax Rules, 1962 prescribes certain set of books only for professionals and not for other assesseees or businesses or traders.

What is Acceptance of Books of Account?

3. In business or profession and in respect of income from other sources, the assessee is required to maintain certain accounts showing day-to-day transactions either in cash or in mercantile system of accounting. The system of accounting adopted by the assessee for his dealing with outside world, say for public information would be adopted for the purpose of computing the profit or loss for tax purposes also. Section 145(1)

Further, accounts are required to be audited with unqualified reports and must be consistent with the chosen method.

In *Md. Umer v. CIT* [1975] 101 ITR 525 (Pat.) it was held that where none of the three situations as provided in Sub-Section 3 of Section 145 (discussed in subsequent paragraphs) exists, a method of accounting regularly followed by the assessee must be accepted.

The Hon'ble Supreme Court in *Indore Malwa United Mills Ltd. v. State of Madhya Pradesh* [1966] 60 ITR 41 held that when an assessee produces before the Assessing Officers all relevant registers, it is not open to the revenue to pick and choose some of the registers which are in its favour.

Whether there can be different methods of accounting for different sources?

3.1 The answer is in the affirmative. The Hon'ble Allahabad High Court in *JK Bankers v. CIT* [1974] 94 ITR 107 held that there can be different methods of accounting for a different source of income.

What is Rejection of Books of Account?

4. Under Income Tax provisions, the Assessing officer has a discretionary power to reject books of account as assessed by an assessee and complete his assessment by "Best Judgment Assessment." It is Assessing Officer's duty to determine the method of accounting regularly employed by an assessee and assess the income, profit and loss in accordance with such method of accounting.

Sub-section (3) of Section 143 empowers the Assessing Officer to make Best Judgment Assessment as provided under Section 144. There are three circumstances, which are –

- (i) *If not satisfied with the correctness or completeness of accounts; or*
- (ii) *If either cash or mercantile system has not been followed consistently; or*
- (iii) *If notified accounting standards have not been followed consistently.*

"Followed consistently" - In *CIT v. Woodward Governor* [2009] 312 ITR 254/179 Taxman 326 the Hon'ble Supreme Court held that the accounting method followed by an assessee continuously for a given period of time has to be presumed to be correct till the Assessing Officer comes to know the

reasons to be given that system does not reflect correct picture and true profits.

Methods of Accounting Recognized

5. As said above, up to 31st March 1997, the Central Government has allowed to follow either the cash or mercantile or the hybrid systems. Consequent to amendment brought vide Finance Act, 1995 w.e.f 1st April 1997, Section 145 recognizes only two methods of accounting to compute income chargeable under the head "Profit & Gains of Business or Profession or Income from other sources."

The Hon'ble Supreme Court in *Morvi Industries Ltd. v. CIT* [1971] 82 ITR 835 held that under the cash system, it is only actual cash receipts and actual cash payments that are recorded.

The mercantile or double entry or accrual system is different from cash system where credit entries are made. The Hon'ble Supreme Court *Morvi Industries Ltd. (supra)* held that when credit entries are made under mercantile system, they become legally due and before they are actually received. Similarly, the expenditure incurred is immediately debited even before the amounts in question are actually settled.
Cash or Mercantile System - It is a matter of choice..!!

6. Even though there is aforesaid amendment, yet the choice of selecting suitable method of accounting still remains with the assessee. The revenue cannot compel an assessee to adopt mercantile system of accounting. If the assessee chooses to adopt cash system under Section 56 of the Act, he cannot be assessed on the accrual basis. *J.K Bankers case (supra)*

Apex Court's Observation on recognized methods

7. The Hon'ble Supreme Court in *CIT v. A Krishna Swamy Mudaliar* [1964] 53 ITR 122 observed that in some cases recognized systems, say cash as well as mercantile system may not give a clear picture of the true profits earned and certainly not of taxable profits.

Income Computation and Disclosure Standards - In Brief

8. For the mercantile system of accounting, the Central Government may prescribe certain standards for computation of income and its

disclosure with respect to a class of income or assessees.

Accordingly, the Central Government, vide Notification No. S.O. 3078 (E), dated 29.09.2016 notified "Income Computation and Disclosure Standards" which apply to all kinds of assessees

except Individuals and HUFs who are not required to get their accounts audited under the provisions of Section 44AD of the Act.

The said Notification will be applicable from the assessment year 2017-18 and subsequent assessment years.

9. Prescribed Income Computation and Disclosure Standards

| Sl.No | ICDS | Relating to |
|-------|-------------|--|
| 1. | ICDS – I | Accounting Policies |
| 2. | ICDS – II | Valuation of Inventories |
| 3. | ICDS – III | Construction Contracts |
| 4. | ICDS – IV | Revenue Recognition |
| 5. | ICDS – V | Tangible Fixed Assets |
| 6. | ICDS – VI | Effects of changes in Foreign Exchange Rates |
| 7. | ICDS – VII | Government Grants |
| 8. | ICDS – VIII | Securities |
| 9. | ICDS – IX | Borrowing Costs |
| 10. | ICDS – X | Provisions, Contingent Liabilities & Contingent Assets |

Constitutional Validity of ICDS - Recent Pronouncement

10. The Hon'ble Delhi High Court in "Chamber of Tax Consultants v. Union of India [2017] 87 taxmann.com 92, held that in order to preserve its constitutionality, Section 145(2) of the Income Tax Act, 1961 has to be read down to restrict power of the Central Government to notify ICDS that does not seek to override binding judicial precedents or provisions of the Act. The power to enact a validation law is an essential legislative power that can be exercised, in the context of the Act, only by the Parliament and not by the executive. If Section 145 (2) of the Act as amended is not so read down it would be ultra vires, the Act and Article 141, read with Articles 144 and 265 of the Constitution.

The ICDS is not meant to overrule the provisions of the Act, the Rules thereunder and the judicial precedents applicable thereto as they stand.

The Hon'ble Delhi High Court, to certain extent has been struck, namely, ICDS - I, II, III, IV, VI, VII, VIII by stating that ultra vires to the Income Tax Act, 1961.

The moot point here is Whether the latest verdict is binding outside the Delhi jurisdiction?

10.1 It is appropriate to mention that the Hon'ble Bombay High Court *Ballarpur Industries Ltd. v. Union of India* [1987] 30 ELT 267 held that a verdict

by any High Court must be binding unless there is a different decision by a High Court or the Apex Court.

Rejection of Books of Account - Whether Justified?

10.2 As said above, the Assessing Officer has a discretionary power to reject books of account. The accounting method may be rejected by virtue of sub-Section (1) of Section 145. Further, books of account itself by virtue of said sub-section, read with Section 144 or under sub-section (3) of Section 143.

10.3 Instances of rejection of books of account –

- ♦ Where entries in respect of certain transactions are altogether omitted or incorrect, etc.
- ♦ Where the accounts show an abnormally low rate of profit
- ♦ Where there is an inherent lacuna in the system of accounting

The assessment completed after the rejection of books of account under Section 145 is not an assessment under Section 144 but is only an assessment under Section 143(3) which is to be made in the manner provided in Section 144.

Burden of Proof

10.4 It is for revenue to consider whether there are sufficient grounds for rejecting a method of

accounting regularly employed by an assessee? In *Veeraiah Reddier v. CIT* 385 ITR 152 (sic.) and *Punjab Trading Co. Ltd. v. CIT* [1964] 53 ITR 335 (Punj. & Har.), it was held that it is not for the assessee to prove that the method of accounting followed ought not to be rejected.

10.5 Whether rejection is justified?

Yes. Justified...!! But not in all instances...!!

Before rejection of books of account, the Assessing Officer must record a clear finding that system of accounting followed by an assessee cannot deduce correct profit or income. Where the accounts are consistently maintained on a basis that has been accepted in the past and there is no material to indicate how it was defective the Assessing Officer cannot reject the books of account merely because in his view, a different method of accounting would be better suited. *CIT v. Margadarshi Chit Funds (P.) Ltd.* [1985] 155 ITR 442/[1984] 19 Taxman 73 (AP).

11. Relevant case laws

11.1 In Favour of Revenue

11.1.1 The Hon'ble Supreme Court in *Kachwala Gems v. Jt. CIT* [2007] 288 ITR 10/158 Taxman 71 held that rejection of books of account under section 145 justified and best judgment assessment under section 144 of the Act needed.

Brief facts: The assessee was dealing in precious stones. The Assessing Officer noticed certain defects in his books of account. The Assessing Officer did not find any evidence or records to verify the closing stock. Hence, the Assessing Officer resorted to best judgment assessment.

11.1.2 The Hon'ble Bombay High Court in *Bastiram Narayandas v. CIT* [1994] 210 ITR 438/74 Taxman 454 held that rejection of books of account justified under section 145 and best judgment assessment under section 144' needed.

Brief facts: The assessee, a Bidi manufacturer, has failed to produce relevant records of its day-to-day manufacture of Bidis.

11.1.3 The Hon'ble Madras High Court in *Abdul Khadar (P.) v. CIT* 36 ITR 341 (sic.) held that presence of unexplained cash credits may justify rejection of books of account.

11.1.4 The Hon'ble Jharkhand High Court in *Amitabh Construction (P.) Ltd. v. CIT (Addl.)* [2011] 335 ITR 523/[2012] 20 taxmann.om 385 held that where purchases are found not to be genuine, the books of account have been rejected rightly.

11.1.5 The Hon'ble Income Tax Appellate Tribunal, "A" Bench, Jaipur, in *Champa Lal Choudary v. Dy. CIT* [2012] 54 SOT 398/24 taxmann.com 308 confirmed the rejection of books of account.

Brief facts: The assessee was a stone dealer and his books of account did not meet the test of deduction of the true and correct picture of profits due to improper stock records.

11. 2 In Favour of Assesseees

11.2.1 The Hon'ble Supreme Court in *CIT v. Padamchand Ramgopal* [1970] 76 ITR 719 held that insignificant mistakes noticed in the books of account of one year, like one item of interest not brought into account or one item of receipt having been incorrectly recorded, cannot form the basis for rejection of books of account.

Brief facts: The assessee, a HUF was in various businesses including money lending, had produced his books of account books. The Income-tax Officer rejected them by stating they were unreliable and completed his assessment by best judgment assessment. The Assessing Officer in his order did not give any reason for not relying on the accounts submitted.

On appeal, the Assistant Commissioner of Income Tax (Appeals), found that in Assessing Officer's order one of the items of interest received by the assessee during the accounting year had not been brought to account and another entry relating to the receipt of income during that year was not correct.

11.2.2 The Hon'ble Karnataka High Court, recently, in *CIT v. Anil Kumar & Co.* [2016] 386 ITR 702/67 taxmann.com 278 held that jurisdiction to estimate assessee's income is not available when books of account have not been rejected.

11.2.3 The Allahabad High Court, recently, in *CIT v. Pashupati Nath Agro Food Products (P.) Ltd* dated 4th May 2017 held that the Assessing Officer did not reject the books of account; it shows that the assessee has maintained the books of account as prescribed under Section 145 of the Act. If so, the

Assessing Officer is not entitled to make any addition on account of sale of goods out of books or for investment in stock out of undisclosed sources.

Appellate Authority - Powers of

12. Even though Section 145 empowers an Assessing Officer to reject the books of account under such circumstances, it is well-settled position that the Commissioner of Income Tax (Appeals) during appellate proceedings has all the powers entrusted on Assessing Officer for the first time in appeal. *CIT v. McMillan & Co.* [1958] 33 ITR 182 (SC)

Reference To Court

13. The question related to the Method of accounting, *Method adopted regularly or not, Profits and gains deduced properly, Change in method of valuation of stock*, is mixed of question of fact and law. In number of cases, it was held that there was no substantial question of law in the context of Section 145 and sub-section (2) of Section 145. To name a few:

- ♦ *CIT v. Bhawan & Path Nirman Bohra* [2002] 258 ITR 676/[2003] 127 Taxman 467 (Raj.)
- ♦ *CIT v. Fazilka Co- Op Sugar Mills Ltd.* [2002] 255 ITR 411/125 Taxman 375 (Raj. & Har.)
- ♦ *CIT v. Ghodawat Pan Masala Products* [2001] 250 ITR 570/119 Taxman 206 (Bom.)
- ♦ *CIT v. Bansal Rice & General Mills* [2001] 250 ITR 588/119 Taxman 212 (Raj. & Har.)
- ♦ *Saddruddin Hussain v. CIT* [2002] 120 Taxman 798 (Raj.)

Interestingly, in many cases it was also held that Section 145 involves only findings of facts or question of facts. To name a few:

- ♦ *Relaxo Footwear v. CIT* [2003] 259 ITR 744/[2002] 123 Taxman 322 (Raj.)
- ♦ *Action Electricals v. Dy. CIT* [2002] 258 ITR 188/[2003] 132 Taxman 640 (Delhi)
- ♦ *Chetan Das Lachhman Dass v. CIT* [2002] 255 ITR 197/122 Taxman 351 (Delhi)

Rejection of Books of Account - Impact of

14. The rejection of the books helps in computing correct income, profit and gains and, accordingly, tax liability.

Impact of rejection of books of account may be summarized as follows:

Addition of lump sum

14.1. When the books are rejected, a lump sum addition is made to the original return of income. Such addition may be based on estimate of turnover and profit rate or disallowance of claims, expenditure, etc. *CIT v. Pilliah & Sons* [1967] 63 ITR 411(SC)

Addition of Specific items

14.2. The Assessing Officer may consider to add certain omissions, defects, etc. Addition to an estimate of the gross receipts or only one of the additions depends on each case. *Akhtari Begum & Sons v. CIT* [1984] 145 ITR 295/[1983] 12 Taxman 79 (MP).

Conclusion

15. The Assessing Officer before resorting to reject books of account, is obliged to use his powers judicially without compromising on the principles of natural justice and also bring on record of material on which basis he concludes his assessment.

Reference

1. Taxmann's Income Tax Act 1961 as amended by Finance Act 2017 61st Edition
2. Taxmann's Yearly Tax Digest & Referencer, 46th Edition 2017
3. Taxmann's Direct Taxes Manual Vol. 3 47th Edition
4. Sampath Iyengar's Law of Income Tax 12th Edition
5. A N Aiyar's Indian Tax Laws 2017 54th Edition

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CENTRAL TAX

Notification No. - 67/2018

Date – 31st December 2018

Seeks to extend the time period specified in notification No. 31/2018-CT dated 06.08.2018 for availing the special procedure for completing migration of taxpayers who received provisional IDs but could not complete the migration process.

CBIC has made amendments in the Notification No.31/2018-Central Tax, dated the 6th August, 2018.

Amendment

In paragraph 2,-

- i. in clause (i), for the figures, letters and word “31st August, 2018”, the figures, letters and word “31st January, 2019” shall be substituted;
- ii. in clause (iv), for the figures, letters and word “30th September, 2018”, the figures, letters and word “28th February, 2019” shall be substituted.

Notification No. - 68/2018

Date – 31st December 2018

Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers.

CBIC has made amendments in

- Notification No. 21/2017– Central Tax, dated the 08th August, 2017
- Notification No. 56/2017– Central Tax, dated the 15th November, 2017,

Amendments-

In the first paragraph, in the proviso, for the words, figures and letters “July, 2017 to November, 2018” has been substituted by “July, 2017 to February, 2019”

And

“31st day of December, 2018” has been substituted by “31st day of March, 2019”.

Notification No. - 69/2018

Date – 31st December 2018

Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers.

CBIC has made amendments-

- i. Notification No. 35/2017 – Central Tax, dated the 15th September, 2017,
- ii. Notification No. 16/2018 – Central Tax, dated the 23rd March, 2018,

Amendments –

In the first paragraph, in the proviso, for the words, figures and letters

“July, 2017 to November, 2018” has been substituted by “July, 2017 to February, 2019”

And

“31st day of December, 2018” has been substituted by “31st day of March, 2019”.

Notification No. - 70/2018

Date – 31st December 2018

Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers.

CBIC has made amendments in Notification No. 34/2018 – Central Tax, dated the 10th August, 2018.

Amendments –

In the first paragraph, in the proviso, for the words, figures and letters

“July, 2017 to November, 2018” has been substituted by “July, 2017 to February, 2019”

And

“31st day of December, 2018” has been substituted by “31st day of March, 2019”.

Notification No. - 71/2018

Date – 31st December 2018

Seeks to extend the time limit for furnishing the details of outward supplies in FORM GSTR-1 for the newly migrated taxpayers.

CBIC has made amendments in Notification No. 43/2018 – Central Tax, dated the 10th September, 2018.

Amendments –

In the first paragraph, in the proviso, for the words, figures and letters

“July, 2017 to September, 2018” has been substituted by “July, 2017 to December, 2018”

And

“31st day of December, 2018” has been substituted by “31st day of March, 2019”.

Notification No. - 72/2018

Date – 31st December 2018

Seeks to extend the time limit for furnishing the details of outward supplies in FORM GSTR-1 for the newly migrated taxpayers.

CBIC has made amendments in Notification No. 44/2018- Central Tax, dated the 10th September, 2018.

Amendments –

In the first paragraph, in the proviso, for the words, figures and letters

“July, 2017 to November, 2018” has been substituted by “July, 2017 to February, 2019”

And

“31st day of December, 2018” has been substituted by “31st day of March, 2019”.

Notification No. - 73/2018

Date – 31st December 2018

Seeks to exempt supplies made by Government Departments and PSUs to other Government Departments and vice-versa from TDS.

CBIC has made amendments in the Notification No. 50/2018- Central Tax dated the 13th September, 2018.

Amendments –

This Notification shall not apply to the supply of goods or services or both which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of section 51 of the said Act.”

Notification No. - 74/2018

Date – 31st December 2018

Fourteenth amendment to the CGST Rules, 2017.

CBIC has made following amendments in the Central Goods and Services Tax Rules, 2017,

- These rules may be called the Central Goods and Services Tax (Fourteenth Amendment) Rules, 2018.
- Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

- In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 12, after sub-rule (1), the following sub-rule shall be inserted, namely:-
 - A person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.
- In the said rules, in rule 45, in sub-rule (3), after the words —received from a job worker , the words, —or sent from one job worker to another shall be omitted.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-74-central-tax-english-2018.pdf;jsessionid=10FC70D9A46E78B521349D3FC0A7DB4F>

Notification No. - 75/2018

Date – 31st December 2018

Seeks to fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-1 for the period July, 2017 to September, 2018 in specified cases.

CBIC has made amendments in the Notification No. 4/2018– Central Tax, dated the 23rd January, 2018.

Amendments –

Entire late fees for the FY. 2017-2018 and upto September-2018 has been waived off for all type of tax payer provided that pending returns such as GSTR-1 should be filed before 31.03.2019.

Notification No. - 76/2018

Date – 31st December 2018

Seeks to specify the late fee payable for delayed filing of FORM GSTR-3B and fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-3B for the period July, 2017 to September, 2018 in specified cases.

Entire late fees for the FY2017-2018 and upto September-2018 has been waived off for all type of tax payer provided that pending returns such as GSTR-3B should be filed before 31.03.2019.

Notification No. - 77/2018

Date – 31st December 2018

Seeks to fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-4 for the period July, 2017 to September, 2018.

Entire late fees for the quarters from July, 2017 to September, 2018 and upto September-2018 has been waived off for all type of tax payer provided that pending returns such as GSTR-4 should be filed before 31.03.2019.

Notification No. - 78/2018

Date – 31st December 2018

Seeks to extend the due date for furnishing FORM ITC-04 for the period from July, 2017 to December, 2018 till 31.03.2019.

The Commissioner extends the time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to December, 2018 till the 31st day of March, 2019.

Notification No. - 79/2018

Date – 31st December 2018

Seeks to amend notification No. 2/2017 - Central Taxes dated 19.06.2017

CBIC has made amendments in the Notification No. 2/2017- Central Tax, dated the 19th June, 2017.

Amendments –

In the said notification, in paragraph 3, the following shall be inserted, namely :- “Notwithstanding anything contained in this notification, the central tax officer specified in column (3) of Table I and the officers subordinate to him shall

exercise powers under sections 73, 74, 75 and 76 of Chapter XV of the said Act throughout the territorial jurisdiction of the corresponding central tax officer specified in column (2) of the said Table in respect of those cases as may be assigned by the Board”.

CENTRAL TAX (RATE)

Notification No. - 24/2018

Date – 31st December 2018

Seeks to further amend notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No.1/2017-Central Tax (Rate), dated the 28th June.

In the said notification, -

- a) in the opening paragraph, after the words, brackets and figures “sub-section (1) of section 9”, the words, brackets and figures “and sub-section (5) of section 15”, shall be inserted;
- b) in Schedule I - 2.5%, -
 - i. S. Nos. 23 and 24 and the entries relating thereto shall be omitted;
 - ii. after S. No. 123 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

| | | |
|-------|------------|---|
| “123A | 2515 11 00 | Marble and travertine, crude or roughly trimmed”; |
|-------|------------|---|

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-24-2018-cgst-rate-english1.pdf>

Notification No. - 25/2018

Date – 31st December 2018

Seeks to further amend notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No.2/2017-Central Tax (Rate), dated the 28th June, 2017.

In the said notification, in the Schedule, -

- (i) for S. No. 43A and the entries relating thereto, the following serial numbers and entries shall be substituted, namely: -

| | | |
|------|------|---|
| “43A | 0710 | Vegetables (uncooked or cooked by steaming or boiling in water), frozen |
| 43B | 0711 | Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption”. |

- (ii) after S. No. 121 and the entries relating thereto, the following serial number and entries shall be inserted, namely:

| | | |
|-------|------------|--|
| “121A | 4904 00 00 | Music, printed or in manuscript, whether or not bound or illustrated”; |
|-------|------------|--|

- (iii) after S. No. 152 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

| | | |
|------|-------------|---|
| “153 | Any Chapter | Supply of gift items received by the President, Prime Minister, Governor or Chief Minister of any State or Union territory, or any public servant, by way of public auction by the Government, where auction proceeds are to be used for public or charitable cause”. |
|------|-------------|---|

This notification shall come into force on the 1st January, 2019.

Notification No. - 26/2018
Date – 31st December 2018

Seeks to exempt central tax on supply of gold by nominated agencies to registered persons.

CBIC has exempted the intra-State supply of gold falling in heading 7108 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when supplied by Nominated Agency under the scheme for "Export Against Supply by Nominated Agency" as referred to in paragraph 4.41 of the Foreign Trade Policy, read with relevant provisions of Chapter 4 of Handbook of Procedures, to a registered person (herein referred to as "recipient"), from the whole of the central tax leviable thereon, under section 9 of the Central Goods and Services Tax Act, 2017, subject to following conditions, namely:-

- (i) the Nominated Agency and the recipient shall follow the conditions and observe the procedures as specified in the Foreign Trade Policy read with Handbook of Procedures;
- (ii) the recipient shall export the jewellery made out of such gold within a period of 90 (ninety) days from the date of supply of gold to such recipient and shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) alongwith the invoice for exports to the Nominated Agency within a period of 120 (one hundred and twenty) days from the date of supply by the Nominated Agency;
- (iii) wherever such proof of export is not produced within the period mentioned in condition (ii), the Nominated Agency shall pay the amount of central tax payable on the quantity of gold not exported, along with interest from the date when the said tax on such supply was payable, but for the exemption.

Notification No. - 27/2018
Date – 31st December 2018

Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No.11/2017- Central Tax (Rate), dated the 28th June, 2017.

Amendments –

In the said notification,-

(i) in the Table, -

- a) against serial number 3, in column (3), in item (xii), after the brackets, figures and word "(xi) above", the word and number "and serial number 38 below" shall be inserted;
- b) against serial number 7, in column (3), in item (i), in Explanation 1, the words "school, college" shall be omitted;
- c) against serial number 8, - (A) after item (iv) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be inserted.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-27-2018-cgst-rate-english.pdf;jsessionid=58DDC7868E42C76CEDDF65753168D97B>

Notification No. - 28/2018
Date – 31st December 2018

Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No. 12/2017- Central Tax (Rate), dated the 28th June, 2017.

Amendments –

In the said notification, -

(i) in the Table, -

- a) after serial number 21A and the entries relating thereto, the following serial number and entries shall be inserted.

| | | | | |
|------|---------------------------------|---|-----|-----|
| "21B | Heading 9965 or Heading 9967 | Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or . (b) local authority; or | Nil | Nil |
|------|---------------------------------|---|-----|-----|

| | | | | |
|--|--|---|--|--|
| | | (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services | | |
|--|--|---|--|--|

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-28-2018-cgst-rate-english.pdf;jsessionid=1B293821CD2EDA8C4D1B7765E3A790B0>

Notification No. - 29/2018

Date – 31st December 2018

Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No. 13/2017- Central Tax (Rate), dated the 28th June, 2017.

Amendments –

In the said notification,-

(i) in the Table,-

- a) against serial number 1, in the entry in column (2), after item (g), the following proviso shall be inserted, namely:-

“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- a) a Department or Establishment of the Central Government or State Government or Union territory; or
b) local authority; or
c) Governmental agencies

which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-29-2018-cgst-rate-english.pdf;jsessionid=C2D40FAED17B2BC07037AC9D0FFE8F4F>

Notification No. - 30/2018

Date – 31st December 2018

Seeks to insert explanation in an item in notification No. 11/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.

CBIC has made following explanation in the Notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017.

Explanation

Nothing contained in this item shall apply to supply of a service other than by way of transport of goods from a place in India to another place in India.”

The existing Explanation in the above item shall be renumbered as Explanation 1.

This notification shall come into force on the 1st day of January, 2019.

INTEGRATED TAX

Notification No. - 31/2018

Date – 31st December 2018

Seeks to amend the IGST Rules, 2017 so as to notify the rules for determination of place of supply in case of inter-State supply under sections 10(2), 12(3), 12(7), 12(11) and 13(7) of the IGST Act, 2017.

CBIC has made following amendments in the Integrated Goods and Services Tax Rules, 2017.

- Short title and commencement.- (1) These rules may be called the Integrated Goods and Services Tax (Amendment) Rules, 2018.
- They shall be deemed to have come into force on the 1st day of January, 2019.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-4-2018-igst-english.pdf;jsessionid=052C05AAB75FA0ED847E5CCE436E814>

INTEGRATED TAX (RATE)

Notification No. - 25/2018

Date – 31st December 2018

Seeks to further amend notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No.1/2017- Integrated Tax (Rate), dated the 28th June, 2017.

In the said notification, -

- a) in the opening paragraph, after the brackets, words and figures “(13 of 2017)”, the words, brackets and figures “read with sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017)”, shall be inserted;
- b) in Schedule I - 5%, - (i) S. Nos. 23 and 24 and the entries relating thereto shall be omitted.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-25-2018-igst-rate-english.pdf;jsessionid=1CBFA5142E3C19BBB146CBF184FC63CE>

Notification No. - 26/2018

Date – 31st December 2018

Seeks to further amend notification No. 2/2017-Integrated Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No.2/2017 - Integrated Tax (Rate), dated the 28th June.

In the said notification, in the Schedule, - (i) for S. No. 43A and the entries relating thereto, the following serial numbers and entries shall be substituted, namely: -

| | | |
|------|------|---|
| “43A | 0710 | Vegetables (uncooked or cooked by steaming or boiling in water), frozen |
| 43B | 0711 | Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption”; |

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-26-2018-igst-rate-english.pdf;jsessionid=F36415D899A252AB772271D57F7F0D6A>

Notification No. - 27/2018

Date – 31st December 2018

Seeks to exempt integrated tax on supply of gold by nominated agencies to registered persons.

CBIC has exempted the inter-State supply of gold falling in heading 7108 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when supplied by Nominated Agency under the scheme for "Export Against Supply by Nominated Agency" as referred to in paragraph 4.41 of the Foreign Trade Policy, read with relevant provisions of Chapter 4 of Handbook of Procedures, to a registered person (herein referred to as “recipient”), from the whole of the integrated tax leviable thereon, under section 5 of the Integrated Goods and Services Tax Act, 2017, subject to some conditions.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-27-2018-igst-rate-english.pdf>

Notification No. - 28/2018

Date – 31st December 2018

Seeks to amend notification No. 8/2017- Integrated Tax (Rate) so as to notify IGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017.

1. In the said notification,-

(i) in the Table, -

- a) against serial number 3, in column (3), in item (xii), after the brackets, figures and word “(xi) above”, the word and number “and serial number 38 below” shall be inserted;
- b) against serial number 7, in column (3), in item (i), in Explanation 1, the words “school, college” shall be omitted;

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-28-2018-igst-rate-english.pdf;jsessionid=174B9C2BC1FFDB2D79F171BA37D5FC73>

Notification No. - 29/2018

Date – 31st December 2018

Seeks to amend notification No. 9/2017- Integrated Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017.

In the said notification, -

(i) in the Table, -

- a) after serial number 22A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

| | | | | |
|------|------------------------------|--|-----|-----|
| “22B | Heading 9965 or Heading 9967 | Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services. | Nil | Nil |
|------|------------------------------|--|-----|-----|

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-29-2018-igst-rate-english.pdf;jsessionid=AF3BC17CE570E2520B594722D219D8A0>

Notification No. -30/2018

Date – 31st December 2018

Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No. 10/2017- Integrated Tax (Rate), dated the 28th June, 2017

In the said notification,-

(i) in the Table,-

- (a) against serial number 2, in the entry in column (2), after item (g), the following proviso shall be inserted, namely: -
“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- a) a Department or Establishment of the Central Government or State Government or Union territory; or
- b) local authority; or
- c) Governmental agencies

which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-30-2018-igst-rate-english.pdf>

Notification No. -31/2018

Date – 31st December 2018

Seeks to insert explanation in an item in notification No. 8/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.

CBIC has made explanation in the Notification No.8/2017- Integrated Tax (Rate), dated the 28th June, 2017.

“Explanation

Nothing contained in this item shall apply to supply of a service other than by way of transport of goods from a place in India to another place in India.

The existing Explanation in the above item shall be renumbered as Explanation 1.

This notification shall come into force on the 1st day of January, 2019.

UNION TERRITORY TAX (RATE)

Notification No. -24/2018

Date – 31st December 2018

Seeks to further amend notification No. 1/2017-Union Territory Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No.1/2017-Union territory Tax (Rate), dated the 28th June, 2017.

In the said notification, -

- a) in the opening paragraph, after the brackets, words and figures “(14 of 2017)”, the words, brackets and figures “read with sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017)”, shall be inserted;
- b) in Schedule I - 2.5%, -
 - (i) S. Nos. 23 and 24 and the entries relating thereto shall be omitted;

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-24-2018-utgst-rate-english.pdf;jsessionid=C409C8DA5EDB4FFE078AD44288ED8829>

Notification No. -25/2018

Date – 31st December 2018

Seeks to further amend notification No. 2/2017-Union Territory Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.

CBIC has made amendments in the Notification No. 2/2017-Union territory Tax (Rate), dated the 28th June, 2017.

In the said notification, in the Schedule, - (i) for S. No. 43A and the entries relating thereto, the following serial numbers and entries shall be substituted, namely: -

| | | |
|------|------|---|
| “43A | 0710 | Vegetables (uncooked or cooked by steaming or boiling in water), frozen |
| 43B | 0711 | Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption”; |

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-25-2018-utgst-rate-english.pdf;jsessionid=F2DF6DFF06791C487FDABA6C9EB937C6>

Notification No. -26/2018

Date – 31st December 2018

Union Territory Tax (Rate)-seeks to exempt Union Territory tax on supply of gold by nominated agencies to registered persons.

CBDT has exempted the intra-State supply of gold falling in heading 7108 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when supplied by Nominated Agency under the scheme for "Export Against Supply by Nominated Agency" as referred to in paragraph 4.41 of the Foreign Trade Policy, read with relevant provisions of Chapter 4 of Handbook of Procedures, to registered person (herein referred to as “recipient”), from the whole of the Union territory tax leviable thereon, under section 7 of the Union territory Goods and Services Tax Act, 2017, subject to certain conditions.

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-26-2018-utgst-rate-english.pdf;jsessionid=5F4F7D00DB181985CE1B2BF949FD5968>

Notification No. -27/2018
Date – 31st December 2018

Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify UTGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the No.11/2017- Union Territory Tax (Rate), dated the 28th June, 2017.

In the said notification,-

(i) in the Table, -

- a) against serial number 3, in column (3), in item (xii), after the brackets, figures and word “(xi) above”, the word and number “and serial number 38 below” shall be inserted;
- b) against serial number 7, in column (3), in item (i), in Explanation 1, the words “school, college” shall be omitted;

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-27-2018-utgst-rate-english.pdf;jsessionid=B498D3531CD2B8C52B0061893BD2906C>

Notification No. -28/2018
Date – 31st December 2018

Seeks to amend notification No. 12/2017- Union Territory Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No 12/2017- Union Territory Tax (Rate), dated the 28th June, 2017.

In the said notification, -

(i) in the Table, -

- a) after serial number 21A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

| | | | | |
|------|------------------------------|--|-----|-----|
| “21B | Heading 9965 or Heading 9967 | Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services. | Nil | Nil |
|------|------------------------------|--|-----|-----|

For more details, please follow - <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-28-2018-utgst-rate-english.pdf;jsessionid=8619BE02D14641A6D7D4785FBCD788B6>

Notification No. -29/2018
Date – 31st December 2018

Seeks to amend notification No. 13/2017- Union Territory Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.

CBIC has made amendments in the Notification No. 13/2017- Union Territory Tax (Rate), dated the 28th June, 2017.

In the said notification,-

(i) in the Table,-

- (a) against serial number 1, in the entry in column (2), after item (g), the following proviso shall be inserted, namely: -

“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- a) a Department or Establishment of the Central Government or State Government or Union territory; or

- b) local authority; or
- c) Governmental agencies

which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-29-2018-utgst-rate-english.pdf;jsessionid=D09F035D419CE9596E53C958ED81363C>

Notification No. -30/2018
Date – 31st December 2018

Seeks to insert explanation in an item in notification No. 11/2017 – Union Territory Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.

CBIC has made explanation in the Notification No. 11/2017- Union Territory Tax (Rate), dated the 28th June, 2017.

Explanation

Nothing contained in this item shall apply to supply of a service other than by way of transport of goods from a place in India to another place in India.

The existing Explanation in the above item shall be renumbered as Explanation 1.

This notification shall come into force on the 1st day of January, 2019.

CGST CIRCULARS

Circular No. - 75/49/2018
Date – 27th December 2018

Subject: Guidelines for processing of applications for financial assistance under the Central Sector Scheme named ‘Seva Bhoj Yojna’ of the Ministry of Culture – Reg.

- The Ministry of Culture has introduced a Central Sector Scheme called the “Seva Bhoj Yojna”
- This scheme has been introduced for reimbursement of CGST and the Central Government’s share of IGST paid on the purchase of certain raw food items namely, ghee, edible oil, sugar/ burra/ jaggery, rice, atta/ maida/rava/flour and pulses used for distributing free food to general public/devotees by charitable/religious institutions like Gurudwaras, temples, Dharmik Ashrams, Mosques, Dargahs, Churches, Math, Monasteries, etc.
- The applications for reimbursement of the said taxes shall be processed by a designated nodal central tax officer of each State or Union territory.

Application for obtaining Seva Bhoj Yojana - Unique Identity Number (SBYUIN)

- The institutions opting to avail of this Scheme have to register at first with the Darpan Portal of NITI Aayog for obtaining a Unique ID from the portal
- Thereafter, the institutions will have to apply on the CSMS Portal on the Ministry of Culture’s website www.indiaculture.nic.in in the prescribed format, and upload the requisite documents.
- After enrolling with the Ministry of Culture, unique enrolment number will be provided to only the eligible institutions for filing claims for the reimbursement of the said taxes.
- The claimant (eligible institutions) will have to submit an application in FORMSBY-01 for obtaining a Seva Bhoj Yojana - Unique Identity Number (hereinafter called as the “SBY-UIN”), to the jurisdictional nodal officer of the State/Union Territory, in which the specified activity is undertaken.
- The claimant must indicate the details of all the locations/branches in a State/Union territory from where the specified activity is undertaken by them in FORM SBY-01.
- Since the reimbursement of the said taxes by the nodal officers shall be done State-wise or Union territory-wise, the claimant would be required to apply for a separate SBY-UIN for each State or Union territory in which they undertake the specified activity.
- Upon receipt of the application in FORM SBY-01 and the information of allocation of a Unique Enrolment Number by the Ministry of Culture, a unique ten digit SBYUIN, in the format of XX/YYYYY/ZZZ (where XX

stands for the two digit State Code, YYYYY stands for the five digit Unique Enrolment Number allotted by the Ministry of Culture and ZZZ stands for the three digit running number assigned by the jurisdictional nodal officer) shall be communicated to the applicant in FORM SBY02 within 7 days from the receipt of the complete application in FORM SBY-01 by the nodal officer.

Application for claiming reimbursement of the said taxes in FORM SBY-03

- All applications for reimbursement of the said taxes by a claimant shall be submitted to the nodal officer of the State/Union territory in whose jurisdiction the claimant undertakes the specified activity, on a quarterly basis in FORM SBY-03, before the expiry of 6 months from the last day of the quarter in which the purchases of the specified items have been made.
- The application for reimbursement of the said taxes in FORM SBY-03 shall be filed once for each quarter in respect of all the locations within the State/Union territory, which are specified in Column 6 of FORM SBY-02, from where the claimant undertakes the specified activity.
- Separate applications is to be filed with respect to each SBY-UIN to the jurisdictional nodal officers if the claimant undertakes the specified activity from different locations situated in more than one State or Union territory.
- The application shall be signed by the authorised signatory of the claimant and shall be submitted along with the following documents:
 - a) Self-attested copies of the invoices issued by the suppliers for the purchases of the specified items mentioning the unique enrolment number allotted by the Ministry of Culture and SBY-UIN.
 - b) A Chartered Accountant's Certificate certifying the following:
 - (i) quantity, price and amount of central tax, State tax/Union territory tax or integrated tax paid on the purchase of the specified items during the quarter for which the claim is filed.
 - (ii) the claimant is involved in charitable/religious activities.
 - (iii) the reimbursement claimed in the current quarter/year is not more than the purchases in the previous corresponding quarter/year plus a maximum of 2.5%/10% for the current quarter/year, as the case may be.
 - (iv) the claimant is using the specified items for only distributing free food to the public/devotees etc. during the claim period.
 - (v) the claimant fully satisfies the conditions issued by the Ministry of Culture.
- The nodal officer shall, within a period of fifteen days from the date of receipt of FORM SBY-03, scrutinize the same for its completeness
- Where the application is found to be complete in all respects, the nodal officer will issue an acknowledgement in FORM SBY-04 & the same shall be communicated to the claimant.

Processing of the application filed in FORM SBY-03

- While processing the application filed in FORM SBY-03, the nodal officer shall verify the following:
 - a) Invoices mentioning the unique enrolment number allotted by the Ministry of Culture and the SBY-UIN for the purchase of the specified items have been submitted;
 - b) The amount claimed as reimbursement is on account of the said taxes paid on the purchase of the specified items during the claim period;
 - c) The amount claimed does not exceed the limit specified
- After examining the application, if the nodal officer is satisfied that the claimant is eligible for the reimbursement of the said taxes, he shall issue an order in FORM SBY-05 sanctioning the amount of reimbursement with full details of the Grant No. and the Functional Head (of Ministry of Culture) under which the amount is to be disbursed by the designated PAO.
- He shall also issue a payment advice in FORM SBY-06 for the eligible amount based on First-cum-First-serve basis with regard to the date of receipt of the complete application in FORM SBY-01.
- The Nodal Officer, in the capacity of Program Division, shall be able to view the available budget (DDO specific) which would get reduced to the extent of the uploaded sanction order immediately after uploading of the sanction order.
- He shall enter the details on the PFMS portal under his login access; scan the sanction order (FORM SBY05) and the payment advise (FORM SBY06) and forward the same to the designated DDO.
- The designated DDO, on the basis of FORM SBY05 and FORM SBY06, shall generate the bill on the PFMS portal and forward the same to the concerned PAO under his digital signature.

Penalties in case of misuse of Assistance Grant

- The members of the executive body of the entity /institution would be liable for recovery of misused grants.
- The organization /institution will also be blacklisted for misuse of funds, fake registration certificate, fake documents etc.
- All immovable and movable assets created from the Government grants would be taken over by local administration prescribed by the Ministry.
- The assistance provided by the Ministry of Culture shall be recovered with penal interest, apart from taking criminal action as per law.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-75.pdf;jsessionid=741D64B67F8F4240FEE184F9E0081406>

Circular No. 76/50/2018
DATE – 31ST DECEMBER 2018

Clarification on certain issues (sale by government departments to unregistered person; levability of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of notification No. 50/2018-Central Tax; valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these issues and to ensure uniformity of implementation across field formations, the Board clarifies the issues.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-76.pdf;jsessionid=D8A4DE1B3EEFFD2756B0340DC33EF912>

Circular No. 77/50/2018
DATE – 31ST DECEMBER 2018

Denial of composition option by tax authorities and effective date thereof

Rule 6 of the Central Goods and Services Tax Rules, 2017 deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the Central Goods and Services Tax Act, 2017 and the CGST Rules.

The rule lays down the procedure for withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the CGST Act or the CGST Rules.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-77.pdf;jsessionid=8852CD3E99DDC8A1D62121D5E124B29A>

Circular No. 78/50/2018
DATE – 31ST DECEMBER 2018

Clarification on export of services under GST

Representations have been received seeking clarification on certain issues relating to export of services under the GST laws. The same have been examined and the clarifications have been made also.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-78.pdf;jsessionid=A5918F26DB0366716A5CF8521A2252D4>

Circular No. 79/50/2018
DATE – 31ST DECEMBER 2018

Clarification on refund related issues

Various representations have been received seeking clarification on various issues relating to refund.

In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the issues in detailed manner.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-79.pdf;jsessionid=B25FB217F28558465E30F48A0A5027C4>

Circular No. 80/50/2018
DATE – 31ST DECEMBER 2018

Clarification regarding GST rates & classification (goods)

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- i. Chhatua or Sattu
- ii. Fish meal and other raw materials used for making cattle/poultry/aquatic feed
- iii. Animal Feed Supplements/ feed additives from drugs
- iv. Liquefied Petroleum Gas for Domestic Use
- v. Polypropylene Woven and Non-Woven Bags and PP Woven and NonWoven Bags laminated with BOPP
- vi. Wood logs for pulping
- vii. Bagasse based laminated particle board
- viii. Embroidered fabric sold in three pieces cloth for lady suits
- ix. Waste to Energy Plant-scope of entry No. 234 of Schedule I of notification No.1/2017- Central Tax (Rate) dated 28.6.2017
- x. Turbo Charger for railways
- xi. Rigs, tools & Spares moving inter-state for provision of service

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-80.pdf;jsessionid=052FBC835DC9CC3450074B134235B9E9>

Circular No. 81/50/2018
DATE – 31ST DECEMBER 2018

Seeks to clarify GST rate for Sprinkler and Drip irrigation System including laterals.

Representations have been received seeking clarification as regards the scope and coverage of entry No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017.

| S. No | Chapter Heading/ Subheading/Tariff Item | Description of Goods | CGST rate |
|-------|--|--|-----------|
| 195B | 8424 | Sprinklers; drip irrigation system including laterals; | 6% |

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-81.pdf;jsessionid=CF38462527D7808A9A7D48EB1B11641D>

CUSTOMS

TARIFF

Notification No. 80/2018-Customs

Date – 15.12.2018

Seeks to further postpone the implementation of increased customs duty on specified imports originating in USA from 17th December, 2018 to 31st January, 2019.

The Central Government has made amendments in the Notification No. 50/2017 - Customs, dated the 30th June, 2017.

Amendment - In the said notification, in the third proviso for the words and figures “17th day of December, 2018”, the words and figures “31st day of January, 2019” shall be substituted.

Notification No. 81/2018-Customs

Date – 15.12.2018

Seeks to partially mend notification No. 37/2017-Customs dated 30.06.2017 in order to exempt BCD and IGST for imports by NTRO.

The Central Government has made amendment in Notification No. 37/2017-Customs, dated the 30th June, 2017, 2017,

Amendment - In the said notification, in the Table, -

- (i) against serial number 6, in column (3), for the figures “2019”, the figures “2022” shall be substituted;
- (ii) against serial number 7, in column (3), for the figures “2019”, the figures “2022” shall be substituted.

NON TARIFF

Notification No. 98/2018-CUSTOMS (N.T.)

Date – 14.12.2018

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver - Reg.

The Central Board of Indirect Taxes & Customs has made amendments in the Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001.

Amendments –

| Chapter/ heading/ sub-heading/ tariff item | Description of goods | Tariff value (US \$Per Metric Tonne) |
|--|--------------------------|--------------------------------------|
| 1511 10 00 | Crude Palm Oil | 472 |
| 1511 90 10 | RBD Palm Oil | 511 |
| 1511 90 90 | Others – Palm Oil | 492 |
| 1511 10 00 | Crude Palmolein | 515 |
| 1511 90 20 | RBD Palmolein | 518 |
| 1511 90 90 | Others – Palmolein | 517 |
| 1507 10 00 | Crude Soya bean Oil | 707 |
| 7404 00 22 | Brass Scrap (all grades) | 3648 |

| | | |
|------------|-------------|------|
| 1207 91 00 | Poppy seeds | 2349 |
|------------|-------------|------|

| Chapter/ heading/ sub- heading/tariff item | Description of goods | Tariff value (US \$) |
|--|---|----------------------|
| 71 or 98 | Gold, in any form, in respect of which the benefit of entries at serial number 356 and 358 of the Notification No. 50/2017- Customs dated 30.06.2017 is availed | 400 per 10 grams |
| 71 or 98 | Silver, in any form, in respect of which the benefit of entries at serial number 357 and 359 of the Notification No. 50/2017- Customs dated 30.06.2017 is availed | 473 per kilogram |

| Chapter/ heading/ sub- heading/tariff item | Description of goods | Tariff value (US \$ Per Metric Tonne) |
|--|----------------------|---------------------------------------|
| 080280 | Areca nuts | 3942" |

Notification No.99/2018

Date – 20.12.2018

Exchange Rates Notification No.99/2018-Custom (NT) dated 20.12.2018

The Central Board of Indirect Taxes and Customs determines that the rate of exchange of conversion of each of the foreign currencies relating to imported and export goods.

| Foreign Currency | Rate of exchange of one unit of foreign currency equivalent to Indian rupees | |
|-------------------|--|--------------------|
| | For imported goods | For exported goods |
| Australian Dollar | 51.25 | 49.15 |
| Bahraini Dinar | 193.40 | 181.40 |
| Canadian Dollar | 53.20 | 51.40 |
| Chinese Yuan | 10.40 | 10.05 |
| Danish Kroner | 10.95 | 10.55 |
| EURO | 81.80 | 78.80 |

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt99-2018.pdf;jsessionid=E595438B5234FC5FA765946D8946DE43>

Notification No.101/2018

Date – 28.12.2018

Amendment to Notification no. 62/94-Customs (N.T.) dated 21.11.1994 in respect of Dahanu Port, Maharashtra

CBIC makes further amendments in the Notification No. 62/1994 –Customs (N.T.), dated the 21st November, 1994.

In the said notification in the Table, against serial number 8 relating to the State of Maharashtra, in item (8) in column (3), for the entries relating thereto, in column (4), the following entries shall be substituted, namely:-

“Unloading of imported coal by M/s Adani Electricity Mumbai Limited”.

ANTI-DUMPING DUTY

Notification No-57/2018 Customs(ADD)

Date – 13.12.2018

Seeks to impose anti-dumping duty on imports of "Zeolite 4A (detergent grade)" originating in or exported from China PR

In case of import of 'Zeolite 4A' [Detergent grade] falling under the tariff items 38249922, 38249090, 38249990, 28429090, 28269000, 28399090, and 28421000 of the First Schedule to the Customs Tariff Act, 1975 originating in, or exported from China PR and imported into India, the designated authority, has come to the conclusion that as per notification No. 6/14/2017-DGAD, dated the 29th October 2018

- a) there was a positive dumping margins as well as material injury to the domestic industry caused by such dumped imports;
- b) such dumping is required to offset dumping and injury; and
- c) it is necessary to impose anti-dumping duty on imports of subject goods from subject countries,

The Authority has also recommended the imposition of definitive anti-dumping duty on the imports of subject goods, originating in or exported from the subject country and imported into India to remove injury to the domestic industry.

The Central Government, after considering the aforesaid final findings of the designated authority, imposes on the subject goods an anti-dumping duty at the rate which are being described in the below Table:

| <u>Heading/ Subheading*</u> | <u>Description of Goods</u> | <u>Country of Origin or Export</u> | <u>Producer</u> | <u>Exporter</u> | <u>Duty Amount</u> | <u>Currency</u> | <u>Unit of Measurement</u> |
|--|------------------------------------|--|--|---|------------------------|-----------------|--------------------------------|
| 38249922 38249090 38249990 28429090 28269000 28399090 28421000 | Zeolite 4A (Detergent Grade) | China PR | Inner Mongolia Risheng Recycling Resource Co. Ltd (IMRRRL) | Tianjin Gerkwin International Trading Co. Ltd. (TGITCL) | 163.96 | USD | MT |
| -do- | -do- | China PR | Chalco Shandong Advance Material Co. Ltd. (CSAMCL) | Chalco Zibo International Trading Co. Ltd (CZITCL) | 165.61 | USD | MT |
| -do- | -do- | China PR | Chalco Shandong Advance Material Co. Ltd. (CSAMCL) | Chalco Qingdao International Trading Co. Ltd (CQITCL) | 163.90 | USD | MT |
| -do- | -do- | China PR | Any other than serial No. 1 to 3 above. | | 207.72 | USD | MT |

The anti-dumping duty imposed shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

Explanation.- For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.

CIRCULARS

Circular No. 52/2018-Customs

Date – 12.12.2018

Revised All Industry Rates of Duty Drawback

The Central Government has notified the revised All Industry Rates (AIRs) of Duty Drawback vide Notification No. 95/2018-Customs (N.T.) dated 6.12.2018 which has come into force on 19.12.2018.

The salient features of the revised AIRs are as follows –

(i) As being done since 1.10.2017, the revised AIRs of Duty Drawback neutralize incidence of duties of Customs on inputs used and remnant Central Excise duty on specified petroleum products used in manufacture of export goods. Accordingly each tariff item in the Schedule annexed with above mentioned Notification has been provided with one AIR specified under column (4) with caps under column (5) in the Schedule. For claiming these AIRs, the relevant tariff item have to be suffixed with suffix 'B' e.g. for export of goods covered under tariff item (TI) 640609, the drawback serial no. should be declared as 640609B;

(ii) The notification also specifies the alternative AIRs on garments exports made against the Special Advance Authorization (para 4.04A of Foreign Trade Policy 2015-20) in discharge of export obligations in terms of Notification No. 45/2016- Customs dated 13.08.2016. For claiming these alternative AIRs, the relevant tariff item has to be suffixed with suffix 'D' instead of the usual suffix 'B'.

(iii) The AIR of Duty Drawback for items of marine products and seafood (Chapter 3, 15, 16, 23) including live fish (TI 0301), chemicals (Chapter 29), essential oils (Chapter 33) including synthetic perfumery compounds (TI 330201), bicycle/ cycle-rickshaw tyres and bicycles tubes (Chapter 40), finished and lining leather, leather articles and footwear (Chapter 41, 42 and 64), raw cotton, ginned cotton (Chapter 52), textiles (Chapter 50 to 60), silk yarn fabrics and readymade garments (Chapter 50 and 61-62), wool yarn fabrics and readymade garments (Chapter 51 and 61-62), carpets (Chapter 57), made-ups (Chapter 63), glass and glass ware (Chapter 70) Multi speed bicycle and Mountain Terrain Bike (TIs 871202 & 871203) and sports goods (Chapter 95) have been increased on account of various factors such as change in duty structure, change in prices (CIF) of imported inputs and FOB of export goods, change in import intensity of inputs, etc.;

(iv) Rationalization of rates for some readymade garments (Chapters 61 & 62), articles of stones (Chapter 68), in iron and steel sector (Chapter 72, 73, 84 and articles in different Chapters) and for bicycles single speed with or without accessory (TI 871201) have been done on account of various reasons viz. decrease in C. Ex. Duty rate on diesel, change in prices (CIF) of imported inputs and FOB of export goods and change in import intensity of inputs etc.;

(v) 24 new tariff items in various sectors viz. Chemicals (17 items), Textiles and made-up (3 items) and Electrical and electronics (4 items) have been introduced in the Schedule including for common rail injector (Chapter 84) and cellular mobile phones (Chapter 85);

(vi) Appropriate caps have been provided wherever felt necessary to prescribe upper limit of Duty drawback.

The Commissioners are expected to ensure due diligence to prevent any misuse. The shipping bills with parameters considered to be sensitive should be handled with adequate care at the time of export. There is also need for continued scrutiny for preventing any excess drawback arising from mismatch of declarations made in the Item Details and the Drawback Details in a shipping bill. With trade facilitation in view, the Drawback Committee constituted by the Central Government has also been mandated to give a supplementary report on the basis of representations received after the revised rates are notified. Accordingly, exporters may immediately come forward with representations with supporting data and documents, if any, for higher rates than rates provided. The representation may be submitted latest by 31.12.2018.

Procedure to be followed in cases of manufacturing or other operations undertaken in bonded warehouses under section 65 of the Customs Act

Certain Sections of trade have represented that they were hitherto permitted to undertake operations under section 65 of the Customs Act 1962 in a public bonded warehouse, licensed under section 57 of the Act. The Jurisdictional customs authorities have not renewed their permission to undertake section 65 operations in a public bonded warehouse as per circular No. 38/2018. This has jeopardized their packing operations and put the trade in difficulty. They have requested for relief in this regard to remove the difficulty of trade.

To enable the proper examination of the matter without sudden disruption to any activities that were permitted in the past under section 65, board has decided to allow operations under section 65 to be continued in public bonded warehouses up to 31.01.2019 in respect of such operators who had been permitted such facility by jurisdictional authorities as on the date of issue of circular 38/2018 Customs dated 18.10.2018

DIRECT TAX

CIRCULARS

Circular No. 9/2018

Date – 26th December 2018

Order under section 119 of the Income-tax Act. 1961

- The period for furnishing of the report under sub-section (4) of section 286 of the Income-tax Act. 1961 (the Act) by the constituent entity referred to in that sub-section shall be twelve months from the end of the reporting accounting year.
- In case, the parent entity of the constituent entity is resident of a country or territory, where there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report shall be six months from the end of the month in which said systemic failure has been intimated.
- Representations from the stakeholders have been received by CBDT. It has been inter alia stated that the constituent entity of an international group which is resident in India having parent entity resident in jurisdictions with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2) of the Act and where the reporting accounting year is calendar year based, i.e., ending on December 31 of the year, would need to furnish the report under sub-section (4) of section 286 of the Act in India by December 31, 2018.
- It has also been represented that read with the amendment to section 286 of the Act and the substituted sub-rule (4) of rule 10DB of the Rules, the constituent entity in such case for reporting accounting year ending on March 31, 2017 would have been required to furnish the CbCR by March 31, 2018 which is not plausible.
- In order to remove the genuine hardship in furnishing of the report under sub-section (4) of section 286 of the Act read with sub-rule (4) of rule 10DB of the Rules caused as above, and as a one-time measure, the Board, in exercise of powers conferred under section 119 of the Act, extend the period for furnishing of said report by the constituent entities referred to under clause (a) or (oo) of said sub-section, in respect of reporting accounting years ending upto February 28, 2018, to March 31, 2019.

PRESS RELEASE

INDIRECT TAX

PRESS RELEASE

Recommendations made during 31st Meeting of the GST Council held on 22nd December, 2018 (New Delhi)- Rate changes and clarification in Goods

Date – 22nd December 2018

GST Council in the 31st meeting held on 22nd December, 2018 at New Delhi took following decisions relating to changes in GST rates, and clarification (on Goods). The decisions of the GST Council have been presented in this note for easy understanding. The same would be given effect to through Gazette notifications/ circulars which shall have force of law.

I. GST rate reduction on goods which were attracting GST rate of 28% :

28% to 18%

- Pulleys, transmission shafts and cranks, gear boxes etc., falling under HS Code 8483
- Monitors and TVs of upto screen size of 32 inches
- Re-treaded or used pneumatic tyres of rubber;
- Power banks of lithium ion batteries. Lithium ion batteries are already at 18%. This will bring parity in GST rate of power bank and lithium ion battery.
- Digital cameras and video camera recorders
- Video game consoles and other games and sports requisites falling under HS code 9504.

28% to 5%

- Parts and accessories for the carriages for disabled persons

II. GST rate reduction on other goods-

18% to 12%

- Cork roughly squared or debagged
- Articles of natural cork
- Agglomerated cork

18% to 5%

- Marble rubble

12% to 5%

- Natural cork
- Walking Stick
- Fly ash Blocks

12% to Nil:

- Music Books

5% to Nil

- Vegetables, (uncooked or cooked by steaming or boiling in water), frozen, branded and put in a unit container
- Vegetable provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption.

Miscellaneous

- Exemption from GST on supply of gold by Nominated Agencies to exporters of article of gold Jewellery.

- Exemption from GST on proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause.
- Exemption from IGST/Compensation cess on vehicles imported for temporary purposes under the Customs Convention on the Temporary importation of Private Road Vehicles (carnet de passages-en-douane).
- Rate of 5%/18% to be applied based on transaction value of footwear
- Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value)

III. GST on solar power generating plant and other renewable energy plants

- GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating system (SGPS) etc) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST.
- Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc and other goods for solar power plant.
- To resolve the dispute the Council has recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.

VI Clarifications:

- Sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate under S.No. 195B of notification No. 1/2017-Central Tax (Rate) dated 28.6.2018
- Movement of Rigs, Tools & Spares and all goods on wheels on own account where such movement is not intended for further supply of such goods but for the provision of service does not involve a supply (e.g., movement of testing equipment etc.) and is not be liable to GST.
- The goods with description Bagasse Board [whether plain or laminated] falling under Chapter 44 attract GST at the rate of 12%.
- Concessional GST rate of 5% applies to the LPG supplied in bulk to an OMC by refiners/fractioners for bottling for further supply to household domestic consumers.
- While animal/cattle/aquatic/poultry feed are exempt vide S. No. 102 of notification No. 2/2017-Central Tax (Rate), this exemption would not apply to their inputs such as fish meal, meat bone meal, bran, sharps, oil cakes of various oil seeds etc.
- Manure of determination of classification of vitamins, provitamins etc. as animal feed supplements
- Sattu or Chattua falling under HS code 1106 and attracts the applicable GST rate.
- Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP falls under HS code 3923 and attract 18% GST rate.
- 18% GST is applicable on wood logs including the wood in rough/log used for pulping.
- Turbo charger is classified under heading 8414 and attracts 18% GST and not 5% GST.
- Fabric even if embroidered or has stitching of lace and tikki etc., and even if sold in three piece fabric as ladies suit set, will be classifiable as fabric and would attract 5% GST.
- Scope of concessional rate of 5% GST rate for specified equipment for waste to energy plant

PRESS RELEASE

Decisions taken by the GST Council in the 31st meeting held on 22nd December 2018 regarding GST rate on services

Date – 22nd December 2018

GST Council in the 31st meeting held on 22nd December, 2018 at New Delhi took following decisions relating to changes in GST rates, ITC eligibility criteria, exemptions and clarifications on connected issues. The decisions of the GST Council have been presented in this note in simple language for easy understanding. The same would be given effect to through Gazette notifications/ circulars which shall have force of law.

Reduction in GST rates/exemptions on services:

- GST rate on cinema tickets above Rs. 100 shall be reduced from 28% to 18% and on cinema tickets upto Rs. 100 from 18% to 12%.
- GST rate on third party insurance premium of goods carrying vehicles shall be reduced from 18% to 12%
- Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) shall be exempted.
- Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at medical establishments, educational institutions, rehabilitation centers established by Central Government / State Government or Union Territories or entity registered under section 12AA of the Income-tax Act shall be exempted.
- Services provided by GTA to Government departments/local authorities which have taken registration only for the purpose of deducting tax under Section 51 shall be excluded from payment of tax under RCM and the same shall be exempted.
- Exemption on services provided by Central or State Government or Union Territory Government to their undertakings or PSUs by way of guaranteeing loans taken by them from financial institutions is being extended to guaranteeing of such loans taken from banks.
- Air travel of pilgrims by non-scheduled/charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements shall attract the same rate of GST as applicable to similar flights in Economy class (i.e. 5% with ITC of input services).

Rationalization

- Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under RCM (reverse charge mechanism) as available to Central and State Governments.
- Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme, shall be put under RCM.
- Services provided by unregistered Business Facilitator (BF) to a bank and agent of Business correspondent (BC) to a BC shall be put under RCM.

Clarifications

- To clarify that with effect from 31st January, 2018 degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt from GST.
- To clarify that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966.
- To clarify to West Bengal that services provided by Council/ Board of Primary/ Secondary/ Higher Secondary Education for conduct of examination to its students are exempt.
- To clarify that "printing of pictures" falls under service code "998386: Photographic and videographic processing services" of the scheme of classification of services and attract GST @18% and not under "998912: Printing and reproduction services of recorded media, on a fee or contract basis" which attracts GST @12%.
- To clarify that leasing of pumps and reservoirs by the OMCs to petrol pump dealers is a mixed supply and the Licence Fee Recovery (LFR) charged for the same shall be leviable to GST @ 28%, the rate applicable to pumps. Leasing of land and buildings along with equipment shall fall under heading 9972 (real estate services) and attract GST rate of 18%.
- To clarify that the incentives paid by RBI to Banks under "Currency Distribution and Exchange Scheme" (CDES) are taxable.
- To clarify under section 11(3) of the CGST Act, 2017 that scope of entry for multi-modal transport with GST rate of 12% inserted w.e.f. date 26.07.2018, covers only transport of goods from a place in India to another place in India, that is, only domestic multi-modal transport.
- To clarify that the nature of business establishment making supply of food, drinks and other articles for human consumption will not determine whether the supply by such establishments is a supply of goods or services. It will rather depend on the constituents of each individual supply and whether same satisfies the conditions / ingredients of a „composite supply“ or „mixed supply“.
- To clarify that GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff and is leviable to GST of 5% when provided by any other person based on a contractual arrangement with such institutions.
- 20. To clarify that the banking

company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.

- To issue a clarification to Food Corporation of India (FCI) that the service provided by godown owner in case of lease with services, where the godown owner, besides leasing the warehouse, undertakes to carry out activities of storage and preservation of stored food grains, is the service of storage and warehousing of agricultural produce and the same is exempt.

PRESS RELEASE

Recommendations made during 31st Meeting of the GST Council

Date – 22nd December 2018

The GST Council in its 31st meeting held today at New Delhi made the following policy recommendations:

1. There would be a single cash ledger for each tax head. The modalities for implementation would be finalised in consultation with GSTN and the Accounting authorities.
2. A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same shall be finalized shortly.
3. The new return filing system shall be introduced on a trial basis from 01.04.2019 and on mandatory basis from 01.07.2019.
4. The due date for furnishing the annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the Financial Year 2017 – 2018 shall be further extended till 30.06.2019.
5. The following clarificatory changes, inter-alia, shall be carried out in the formats/instructions according to which the annual return / reconciliation statement is to be submitted by the taxpayers:
 - i. Amendment of headings in the forms to specify that the return in FORM GSTR-9 & FORM GSTR-9A would be in respect of supplies etc. 'made during the year' and not 'as declared in returns filed during the year';
 - ii. All returns in FORM GSTR-1 & FORM GSTR-3B have to be filed before filing of FORM GSTR-9 & FORM GSTR-9C;
 - iii. All returns in FORM GSTR-4 have to be filed before filing of FORM GSTR-9A;
 - iv. HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies;
 - v. Additional payments, if any, required to be paid can be done through FORM GST DRC-03 only in cash;
 - vi. ITC cannot be availed through FORM GSTR-9 & FORM GSTR-9C;
 - vii. All invoices pertaining to previous FY (irrespective of month in which such invoice is reported in FORM GSTR-1) would be auto-populated in Table 8A of FORM GSTR-9;
 - viii. Value of "non-GST supply" shall also include the value of "no supply" and may be reported in Table 5D, 5E and 5F of FORM GSTR-9;
 - ix. Verification by taxpayer who is uploading reconciliation statement would be included in FORM GSTR-9C.
6. The due date for furnishing FORM GSTR-8 by e-commerce operators for the months of October, November and December, 2018 shall be extended till 31.01.2019.
7. The due date for submitting FORM GST ITC-04 for the period July 2017 to December 2018 shall be extended till 31.03.2019.
8. ITC in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing of FORM GSTR-3B for the month of March, 2019, subject to specified conditions.
9. All the supporting documents/invoices in relation to a claim for refund in FORM GST RFD-01A shall be uploaded electronically on the common portal at the time of filing of the refund application itself, thereby obviating the need for a taxpayer to physically visit a tax office for submission of a refund application. GSTN will enable this functionality on the common portal shortly.
10. The following types of refunds shall also be made available through FORM GST RFD-01A:
 - i. Refund on account of Assessment/Provisional Assessment/Appeal/Any Other Order;
 - ii. Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice-versa;
 - iii. Excess payment of Tax; and
 - iv. Any other refund.
11. In case of applications for refund in FORM GST RFD-01A (except those relating to refund of excess balance in the cash ledger) which are generated on the common portal before the roll out of the functionality described

in point (10) above, and which have not been submitted in the jurisdictional tax office within 60 days of the generation of ARN, the claimants shall be sent communications on their registered email ids containing information on where to submit the said refund applications. If the applications are not submitted within 15 days of the date of the email, the said refund applications shall be summarily rejected, and the debited amount, if any, shall be re-credited to the electronic credit ledger of the claimant. .

12. One more window for completion of migration process is being allowed. The due date for the taxpayers who did not file the complete FORM GST REG-26 but received only a Provisional ID (PID) till 31.12.2017 for furnishing the requisite details to the jurisdictional nodal officer shall be extended till 31.01.2019. Also, the due date for furnishing FORM GSTR-3B and FORM GSTR-1 for the period July, 2017 to February, 2019/quarters July, 2017 to December, 2018 by such taxpayers shall be extended till 31.03.2019.

13. Late fee shall be completely waived for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters July, 2017 to September, 2018, are furnished after 22.12.2018 but on or before 31.03.2019.

14. Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality.

15. Clarifications shall be issued on certain refund related matters like refund of ITC accumulated on account of inverted duty structure, disbursement of refunds within the stipulated time, time allowed for availment of ITC on invoices, refund of accumulated ITC of compensation cess etc.

16. Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified w.e.f. 01.02.2019. The requisite Notifications/Circulars for implementing the above recommendations of the GST Council shall be issued shortly.

PRESS RELEASE

Certain important issues referred by GST Council to various Committees / GoM

Date – 22nd December 2018

The GST Council in its 31st meeting held today at New Delhi decided to refer the following issues to Committees / GoM indicated against them:

- i. Extending the Composition scheme to small service providers. The rate of tax and threshold limit to be proposed - Law Committee and Fitment Committee.
- ii. Tax rate on lotteries – Committee of States.
- iii. Taxation of residential property in real estate sector – Law Committee and Fitment Committee.
- iv. Threshold limit of exemption under GST regime – GoM on MSMEs.

GST council in its next meeting would take a view on the above issues in its next meeting.

PRESS RELEASE

In-Principle approval given for Law Amendments during 31st Meeting of the GST Council

Date – 22nd December 2018

The GST Council in its 31st meeting held today at New Delhi gave in principle approval to the following amendments in the GST Acts:

1. Creation of a Centralised Appellate Authority for Advance Ruling (AAAR) to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.

2. Amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger.

The above recommendations of the Council will be made effective only after the necessary amendments in the GST Acts are carried out.

DIRECT TAX

PRESS RELEASE

Exception from online filing of application under section 197 and 206C (9) in the cases of NRIs and resident applicants

Date – 24th December 2018

The Central Board of Direct Taxes has decided to allow exception from online filing of application under section 197 and 206C (9) in the cases of NRIs and resident applicants.

Vide Notification No. 74/2018 dated 25.10.2018, Rule 28 of the Income Tax Rules, 1962 was amended to prescribe electronic filing of application for lower deduction or no deduction under section 197 of Income Tax Act, 1961 using digital signature or EVC. Similar changes were also made in Rule 37G to prescribe electronic filing of application under section 206C (9) for lower or nil rate of tax collection at source (TCS). The functionality for online filing has since been made available by CPC-TDS through TRACES portal. Form No. 13 is the common form for application under section 197 and 206C (9).

For proper administration of the provisions of section 197 and 206C (9) and to remove genuine hardship being faced by certain applicants in filing online application in Form No. 13, the Central Board of Direct Taxes by virtue of the powers conferred under section 119(1) of the Income Tax Act has:

- (i) allowed non-resident Indians (NRIs), who are not able to register themselves on TRACES, to file manual application in Form No. 13 before the TDS officer or in ASK Centers till 31.03.2019.
- (ii) allowed resident applicants to file manual application in Form No. 13 before the TDS officer or in ASK Centers till 31.12.2018.

**Press Information Bureau
Government of India
Ministry of Commerce & Industry**

Review of policy on Foreign Direct Investment (FDI) in E-Commerce

To provide clarity to FDI policy on e-commerce sector, Para 5.2.15.2 of the Consolidated FDI Policy Circular 2017 will now read as under:

5.2.15.2 E-commerce activities

| Sector/Activity | % of Equity/FDI Cap | Entry Route |
|-----------------------|---------------------|-------------|
| E-commerce activities | 100% | Automatic |

Subject to provisions of FDI Policy, e-commerce entities would engage only in Business to Business (B2B) e-commerce and not in Business to Consumer (B2C) e-commerce.

Definitions:

- **E-commerce-**

E-commerce means buying and selling of goods and services including digital products over digital & electronic network.

- **E-commerce entity-**

E-commerce entity means a company incorporated under the Companies Act 1956 or the Companies Act 2013 or a foreign company covered under section 2 (42) of the Companies Act, 2013 or an office, branch or agency in India as provided in section 2 (v) (iii) of FEMA 1999, owned or controlled by a person resident outside India and conducting the e-commerce business.

- **Inventory based model of e-commerce-**

Inventory based model of e-commerce means an e-commerce activity where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly.

- **Marketplace based model of e-commerce-**

Marketplace based model of e-commerce means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between buyer and seller.

Guidelines for Foreign Direct Investment on e-commerce sector

100% FDI under automatic route is permitted in marketplace model of e-commerce.

FDI is not permitted in inventory based model of e-commerce.

Other Conditions

1. Digital & electronic network will include network of computers, television channels and any other internet application used in automated manner such as web pages, extranets, mobiles etc.
2. Marketplace e-commerce entity will be permitted to enter into transactions with sellers registered on its platform on B2B basis.
3. E-commerce marketplace may provide support services to sellers in respect of warehousing, logistics, order fulfillment, call centre, payment collection and other services.
4. E-commerce entity providing a marketplace will not exercise ownership or control over the inventory i.e. goods purported to be sold. Such an ownership or control over the inventory will render the business into inventory based model. Inventory of a vendor will be deemed to be controlled by e-commerce marketplace entity if more than 25% of purchases of such vendor are from the marketplace entity or its group companies.
5. An entity having equity participation by e-commerce marketplace entity or its group companies, or having control on its inventory by e-commerce marketplace entity or its group companies, will not be permitted to sell its products on the platform run by such marketplace entity.
6. In marketplace model goods/services made available for sale electronically on website should clearly provide name, address and other contact details of the seller. Post sales, delivery of goods to the customers and customer satisfaction will be responsibility of the seller.
7. In marketplace model, payments for sale may be facilitated by the e-commerce entity in conformity with the guidelines of the Reserve Bank of India.
8. In marketplace model, any warrantee/ guarantee of goods and services sold will be responsibility of the seller.
9. E-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field. Services should be provided by e-commerce marketplace entity or other entities in which e-commerce marketplace entity has direct or indirect equity participation or common control, to vendors on the platform at arm's length and in a fair and non-discriminatory manner. Such services will include but not limited to fulfilment, logistics, warehousing, advertisement/ marketing, payments, financing etc. Cash back provided by group companies of marketplace entity to buyers shall be fair and non-discriminatory. For the purposes of this clause, provision of services to any vendor on such terms which are not made available to other vendors in similar circumstances will be deemed unfair and discriminatory.
10. Guidelines on cash and carry wholesale trading as given in para 5.2.15.1.2 of Consolidated FDI Policy Circular 2017 will apply on B2B e-commerce.
11. E-commerce marketplace entity will not mandate any seller to sell any product exclusively on its platform only.
12. E-commerce marketplace entity will be required to furnish a certificate along with a report of statutory auditor to Reserve Bank of India, confirming compliance of above guidelines, by 30th of September of every year for the preceding financial year.

Subject to the conditions of FDI policy on services sector and applicable laws/regulations, security and other conditionality, sale of services through e-commerce will be under automatic route.

JUDGEMENTS

INDIRECT TAX

MEDICINES, CONSUMABLES, IMPLANTS PROVIDED BY HOSPITALS TO IN-PATIENTS EXEMPTED FROM GST: KERALA AAR

KIMS HEALTH CARE MANAGEMENT LTD VS. KERALA AAR

CASE NO. – KER/17/2018
DATE – 20.10.2018

Fact of the Case

1. In the present case the applicant KIMS Health Care Management Ltd is a multi – specialty tertiary care hospital providing health care services.
2. They have categorized the patients as Out-Patients and In-Patients for the administrative convenience. The out-patients are those who visit the hospital for routine check-ups or clinical visits. The in-patients are those who are admitted in to the hospital for the required treatment.
3. The in- patients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/ procedures required for the treatment.

Decision of the Case

1. An outpatient is concerned, hospital gives only prescription, which is an advisory in nature. The patient has absolute freedom to follow the prescription or not.
2. There is freedom to procure the medicines or allied items prescribed, either from the pharmacy run by the hospital or from any other medicine dispensing outlets.
3. Therefore pharmacy run by hospital dispensing medicine to outpatient or by standers or others can be treated as individual supply of medicine and not covered under the ambit of health care services. Hence such supply of medicine and allied goods are taxable.
4. But in case of supplying medicines or allied items based on prescription for the in-patients by the pharmacy is exempted from GST.

GST LEVIABLE ON WAREHOUSE SERVICES USED FOR PACKING AND STORAGE OF TEA: MAHARASHTRA AAR

NUTAN WAREHOUSING COMPANY PRIVATE LIMITED VS. MAHARASHTRA AAR

CASE NO. - ARA-30/2017-18/B-38
DATE - 23/05/2018

Fact of the Case

1. The appellants obtained the license for carrying out the business of warehousing under the Bombay Warehousing Act, 1959, rented out the same to M/

Unilever India Exports Ltd on specific compensation allowed under Bombay Warehousing Act.

2. The appellants approached the Advance Ruling Authority seeking a clarification on the tax liability on the warehousing facilities provided to them.
3. The appellants contended that the services supplied by the appellant are for agricultural produce and therefore, GST exemption must be allowed.
4. However, the Advance Ruling Authority denied the benefit to the appellants. Aggrieved by the order, the appellants approached the appellate authority for relief.
5. The appellate authority upheld the order of the AAR that the stored products are not the agricultural produce as being projected by the appellant.

Decision of the Case

1. The Apex court had held that the activity of cultivation and sale of green tea leaves is falling under the agricultural activity and the activity of purchasing tea leaves and manufacture and sale of tea is falling under Business Activity for the purpose of computation of Income Tax under Income Tax Act.
2. On the basis of the above clarification, storage of tea in the warehouse cannot be treated as agricultural activities but it is to be treated as business activities.
3. So the AAAR, Maharashtra has upheld the order of Advance Ruling Authority and held that the warehouse services used for packing and storage of tea are not exempted from GST.

NO GST EXEMPTION ON LOCAL TRANSPORTATION, INSURANCE, DELIVERY AND STORAGE OF MATERIALS IN TOWER PACKAGE: WESRT BENGAL AAR

SKIPPER LTD. VS. WESRT BENGAL AAR

CASE NO. -25 OF 2018
DATE – 30.08.2018

Fact of the Case

1. Skipper Ltd. is the applicant in the instant case.
2. The applicant engaged in the manufacturing, installation and other ancillary services of integrated transmission towers entered into a Joint Venture.
3. The issue before the Authority is to determine the application of the Exemption Notification – No. 12/2017 dated 28/06/2017 to inland/local transportation, insurance, delivery of materials and storage of goods.
4. The applicant contended that immovable property, after construction/erection/repair/ commissioning, is attached to the land, structure or building for the permanent beneficial enjoyment of the structure

and it cannot be removed without substantial damage to the structure.

Decision of the Case

1. The Authority referred to the General Clauses Act, 1897 Transfer of Property Act, 1882 to reiterate the meaning of immovable property and held that a Tower Package includes the erection of a series of transmission towers linked together by the power line for transmitting electricity. The towers are erected on foundations built on the land, and benefits of the towers cannot be enjoyed unless they are so attached.
2. It was hence ruled that the Applicant supplies works contract service, the value of which includes inter alia consideration paid for transportation and in-transit insurance.
3. GST is to be paid on the entire value of the works contract, including the supply of materials, transportation, in-transit insurance, erection, commissioning etc.
4. The exemption is, therefore, not applicable in the present context.

GST LEVIABLE ON SUPPLY OF GOODS AND SERVICES TO DUTY FREE SHOPS AT INTERNATIONAL AIRPORTS IN INDIA

M/S VASU CLOTHING PVT LTD. VS. THE UNION OF INDIA & OTHERS

**CASE NO. – WRIT PETITION NO. 17999/2018
DATE – 17.12.2018**

Fact of the Case

1. The petitioner, a manufacturer, and exporter of garments in India and specializes in the manufacturing of high-quality products for children with the customer base in the Middle East, South Africa, and the USA, intends to supply goods to Duty-Free Shops (DFSs) situated in the duty-free area at international airports.
2. The petitioner claimed that the benefit available to him under the erstwhile central excise regime of removing goods from his factory to DFS located in the international airports without payment of duty is not available to him under the GST regime.
3. The bench observed that the petitioner is not exporting the goods out of India. He is selling to a supplier, who is within India and the point of sale is also at Indore as the petitioner is receiving the price of goods at Indore.
4. The bench noted that for the purpose of CGST Act, India extends up to the Exclusive Economic Zone up to 200 nautical miles from the baseline.

Decision of the Case

1. The petitioner is manufacturing certain goods and supplying to a person, who is having a Duty Free Shop.

2. It is true that we cannot export our taxes but the facts remain that it is not the petitioner, who is exporting the goods or taking goods out of India. He is selling to a person, who is having Duty Free Shop (to a Duty Free Operator), which is located in India.
3. So the petitioner cannot escape the liability to pay GST.

CHARGES FOR CHEQUE BOUNCE WILL ATTRACT GST

MAHARASHTRA AAR

Fact of the Case

1. The applicant is a non-banking financial company
2. The applicant collected Cheque Bounce Charges from its customers which is liable to GST.
3. The applicant argued that cheque-bounce charges is not a consideration for supply, rather it is nothing but a penalty or liquidated damages. Hence, such charges should not be liable to GST.

Decision of the Case

1. The Maharashtra AAR ruled that the recovery of charges in lieu of cases where a party fails to honour its commitment of timely payment is act of toleration of such an act.
2. Charges ensure that the applicant continues its agreement with its customers despite default.
3. Therefore it is treated as supply under the GST Act and hence it is taxable.

CASES TAKEN UP BY NATIONAL ANTI PROFITEERING AUTHORITY NAA: UPHOLDS PROFITEERING BY L'OREAL DISTRIBUTOR, DIRECTS INVESTIGATION FOR SUBSEQUENT PERIOD

CASE NO. TS-815-NAA-2018-NT

NATIONAL ANTI-PROFITEERING AUTHORITY (NAA) V/S A DISTRIBUTOR OF L'OREAL

Fact of the Case:

National Anti-Profitteering Authority (NAA) upholds a case of profiteering u/s section 171 of CGST Act 2017 against a distributor of L'oreal, observing that base price was increased despite reduction in tax rate from 28% to 18% w.e.f November 15, 2017 vide Notification 41/2017 Central Tax rate; Rejecting Respondent's argument that it had no control on the fixing of base price as well as MRPs as both were fixed by manufacturer, clarifies that Respondent is a registered supplier under CGST/SGST Act and bound to follow Notification dated November 14, 2017 to pass on benefit of GST rate reduction; Further, there is no evidence to show that he had corresponded with the manufacturer for decrease in base prices, hence "it is apparent that the Respondent in spite of his legal obligation has enhanced the prices of all the 293 products and resorted to profiteering"

Decision of the Case

NAA; Elucidates that, discounts provided to customers after rate reduction are required to be considered as ongoing existing promotional schemes during pre-GST rate reduction period, consequently directs Respondents to reduce sale prices commensurate to reduction in tax rate and deposit profiteered amount along with interest in Consumer Welfare Fund; Further, noting that present investigation pertained to period November 15, 2017 to March 31, 2018, directs DGAP to further investigate the quantum of profiteering for subsequent period.

The order was passed by Shri. B.N. Sharma (Chairman), Shri. J.C. Chauhan and Smt. R.Bhagyadevi.

NAA: HOLDS HUL GUILTY OF PROFITEERING FOR NOT PASSING GST RATE-CUT BENEFIT TO CONSUMERS

CASE NO. [TS-805-NAA-2018-NT]

NATIONAL ANTI-PROFITEERING AUTHORITY (NAA) V/S HINDUSTAN UNILEVER LIMITED

Fact of the Case:

NAA held that Respondent Hindustan Unilever Limited (HUL) has resorted to profiteering being very well aware of the law and the rules which warranted him to pass on the benefit of GST rate reductions. Further he has also consciously and illegally recovered the excess realisation which was due to his Redistribution Stockists (RSs) as ITC and thereby denied the benefit of tax reductions to the customers. He has further acted in conscious disregard of the obligation which was cast upon him to pass on the benefit of GST rate reductions. Instead he had deliberately increased the base prices by enhancing them equivalent to the amount of GST rate reductions in order to keep the old MRPs in place or not reduced them proportionately to the benefit of tax reductions, accordingly he has committed an offence under section 122 (1) (i) of the CGST Act, 2017 by issuing incorrect invoices to his customers and thus penal provisions under the above Act are required to be invoked against him.

The above Applicant through his application had complained that although the Goods & Service Tax (GST) had been reduced from 28% to 18% on a large number of products w.e.f. 15.11.2017, the Respondent had not reduced the Maximum Retail Prices (MRPs) of the products which were being sold by him.

The Applicant No. 1 had also alleged that the Respondent had increased the base prices of his products, so that the MRPs continued to be the same even after reduction in the rates of GST.

Decision of the Case

After examining the various deductions claimed by the Respondent the DGAP's Report states that the Respondent had claimed that he had passed on the benefit by supplying increased grammage of the products to the consumers i.e. more quantity was supplied for the

existing price under the term PD. Similarly, the Respondent had also claimed deduction on expenditure incurred on some sales promotion schemes on the impacted goods sold through MT under the term TTSD. Both these deductions were denied by the DGAP on the ground that the legal provisions did not allow any other mode of passing on the benefit except by reduction in the prices as per the provisions of Section 171 of the CGST Act, 2017.

Respondent's act "squarely falls within the definition of profiteering being unethical, immoral, illegal, malafide and contumacious", relies upon SC ratio in Glaxo Smithkline Pharmaceuticals Ltd.; Rejecting Respondent's plea that tax reduction benefit could be passed on by supplying additional quantity of goods for same price, holds that, Respondent had given no choice to customers and forced them to accept additional quantity by paying more price, tax and profit margin; By issuing letter to re-distribution stockists (RS) mentioning that benefit of rate reductions shall be passed on to consumers through MRP reductions/increased fill levels, Respondent had not only denied ITC to RSs but also restrained them from passing benefit of tax reduction rates to its customers, making them equally liable for contravention of Section 171; Remarks that Respondent deposited excess realization in CWF only after complaint of profiteering was lodged against him and not deposited amount of profiteering by claiming number of deductions, while rejecting Respondent's plea to exclude TRAN-2 credit of Rs. 76 crores from profiteered amount; Also, finds no force in Respondent's plea that amount of Rs. 45.31 crores was claimed as deduction on account of loss due to reduction in area-based incentive in absolute terms, observes that there is no direct co-relation between MRP of product (which is same all India) and area-based exemption benefit; Consequently holds that, Respondent had deliberately increased base prices by enhancing them equivalent to amount of GST rate reductions and kept same MRPs or not reduced same proportionate to tax reduction benefits, accordingly committed an offence u/s 122 (1)(i) of CGST Act, 2017.

CLARIFICATIONS GIVEN BY AUTHORITY OF ADVANCE RULING:

EMPLOYEES SERVICE IN CORPORATE OFFICE TO DISTINCT UNITS CONSTITUTES SUPPLY

ADVANCE RULING NO. - [TS-814-AAAR-2018-NT]

Clarification

Karnataka Appellate Authority for Advance Rulings (AAAR) upholds decision of AAR that activities performed by employees at its Indian Management Office (IMO) i.e. corporate office in the course of or in relation to employment such as accounting, other administrative and IT system maintenance for units located in other states (i.e. distinct units) shall be treated as 'supply' as per Entry 2 of Schedule I r/w Section 7 of CGST Act, 2017; Notes AAR's findings that "there is an employee-

employer relationship only with respect to the IMO and services of the employees at IMO” and that “No such relationship exists between the employees at the IMO and the other units of the Company which are distinct units”, hence, entry 1 of Schedule III is inapplicable; Clarifies that object of tax under GST is ‘supply’ which concept is wider than concepts of ‘manufacture’, ‘sale of goods’, ‘provision of services’ which were objects of taxation under Excise law, VAT or Service Tax; Expounds that “In order to construe what is ‘supply’ one starts with the layman’s understanding of the expression as meaning ‘to make something available to another or to fulfill the want of another”, further rejects appellant’s contention that ISD mechanism is squarely applicable to them and not cross charge method; Holds that, in view of deeming fiction contained under entry 2 of Schedule I, service supplied by IMO to its other units by way of performing activities which benefits the other distinct persons is liable to be charged to GST and valued as per the provisions of section 15 while elucidating that, “The employee-employer relationship is to be viewed separately for every registered unit of the business entity” : Karnataka AAAR

The order was passed by Shri. A.K. Jyotishi (Central Tax) and Shri. M.S. Srikar (State Tax)

TRANSFER OF DEVELOPMENT RIGHTS CONSTITUTES LEVY OF GST ON JOINT DEVELOPMENT AGREEMENT.

ADVANCE RULING NO. - TS-730-AAR-2018-NT

The applicant sought advance ruling with respect to following issues:-

- Whether the applicant is liable to pay GST on the value of building constructed and handed over to the land owner in terms of the Joint Development Agreement?
- If there is liability to pay GST on what value is the GST to be paid since there is no monetary consideration involved?
- Is the applicant liable to pay Service Tax upto 30.06.2017 and GST thereafter?

The Hon’ble AAR, Karnataka vide Advance Ruling No. KAR ADRG 30/2018 dated November 28, 2018 held that the applicant is supplying the construction service of building / civil structure to supplier of the development rights (the land owner) against consideration in the form of transfer of development rights. Notification No.4/2018-Central Tax (Rate) dated 25.01.2018, at para (b), stipulates that the supplier of construction service, to the supplier of development rights, is liable to pay GST for the service provided to the land owner in terms of the Joint Development Agreement. Therefore, the applicant needs to pay tax towards the construction service provided to the land owner, on the value to be determined in terms of para 2 of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

Further, service tax is liable to be paid, which is leviable under the Finance Act’ 1994, on the services provided up to 30.06.2017. Also, the GST is liable to be paid under the CGST Act’2017 /KGST Act 2017, on the services provided after 01.07.2017. Therefore, the applicant has to pay service tax/GST proportionate to the services provided before / after 30.06.2017 respectively.

DIRECT TAX

ENJOYMENT OF PROPERTY WITH OWNERSHIP RIGHTS NECESSARY CONDITION FOR ‘DEEMED OWNER’: ITAT MUMBAI

M/S INDICLAY VS. ITO

CASE NO. –ITA NO. 732/MUM/2018
DATE -30.11.2018

Fact of the Case

1. Assessee-Firm was carrying on the activity of manufacturing of pesticides, formulations for agricultural use in a rented premise till the year 2004.
2. Later on the assessee firm amended the object cause to include subletting of the premises.
3. Accordingly the assessee sublet the premises to M/S Movielabs firms Pvt. Ltd. & declared rental income as income from business & profession at the time of filling Income Tax Return.
4. The A.O rejected the return on the ground that the rental income to be treated as income from House Property since the assessee is the absolute owner of the said rental premises.
5. The assessee went to tribunal against the order of the A.O.

Decision of the Case

1. After considering the contentions from both the sides, the Tribunal noted that before treating the assessee as owner or deemed owner of the property for treating the income derived from subletting of the property as house property income, the Department must bring material on record to establish such fact.
2. The Income Tax Appellate Tribunal (ITAT), Mumbai bench has held that to treat a person as ‘deemed owner’ of the property for the purpose of Income Tax Act, it is a necessary condition to prove that such person is enjoying the property with ownership rights.

SILVER ARTICLES GIVEN TO BRIDE CAN’T BE SEIZED: ITAT LIBERALLY INTERPRETS CBDT INSTRUCTION-ITAT INDORE

SMT. RASHMI MAJUMDAR VS.DCIT(CENTRAL),BHOPAL

CASE NO. – 592/IND/2017
DATE -10.12.2018

Fact of the Case

1. In the present case the Bride is the petitioner.
2. The department seized some jewellery and silver articles belongs to the appellant after the search proceedings.
3. On the application of the Bride , the authority refused to release the silver articles weighing 609 grams and 280 grams.
4. On the second appeal, the Tribunal noted that the authority ignored the fact that in the Indian customs and traditions at the time of marriage silver utensils are also given to the bride.

Decision of the Case

1. It is quite possible that the word silver utensils were not included in the CBDT instructions because at that point of time silver utensils were not coming under the category of capital assets.
2. In the opinion of Learned CIT(A), there should have liberal approach by giving the benefit to the assessee for the value of gold jewellery & value of Silver Utensils held by the assessee within the monetary limit of value as on the date of search of the gold jewellery ornaments.
3. The Learned CIT(A), directed to delete the addition of Rs.34,495/- made for Assessment Year 2015-16 for silver utensils found in the locker owned by the assessee.
4. It also directed not to seize silver articles of the assessee.

FINANCE CHARGES PAID TO NBFCs NOT SUBJECT TO TDS: ITAT KOLKATA

SMT. CHAMPA NANDI VS. ACIT KOLKATA

CASE NO. – 2517/KOL/2017

DATE – 07.12.2018

Fact of the Case

1. In the present case, the assessee has debited in his profit and loss account an aggregate sum of Rs.5,68,40,472/- under the head interest and finance charges.
2. During assessment proceedings, the Assessing Officer held that such amounts were payable/paid to different non-banking financial companies and no tax has been deducted at source under section 194A of the Act.
3. According to the assessee, the finance charges do not involve interest and hence, section 194A is not attracted since his business was that of hiring out industrial crane and equipment which are acquired on hire purchase finance from the bank and other financial companies.
4. It was contended that the monthly hire -purchase installments were paid in which financial charges were also included.

Decision of the Case

1. The Tribunal noted that all such loans, monthly deduction of principal and proportionate interest had been paid by the assessee and claimed in the accounts as finance charges.
2. The total interest debited during the year amounted to Rs.4,41,12,661/- without any deduction of TDS.
3. So the Tribunal passed the order that the addition made by the assessing officer in connection with deducting TDS should be deleted.

INCOME TAX DEPT CANNOT PROBE FOREIGN ASSETS OF ASSESSEE AFTER SIX YEARS: DELHI HIGH COURT

BRAHM DATT VS. ASSISTANT COMMISSIONER OF INCOME TAX

CASE NO. – W.P.(C)1109/2016

DATE - 06.12.2018

Fact of the Case

1. In the present case , 84 years old Brahm Datt is the assessee.
2. The assessee was working in Jordan and Iraq between assessment years (AY) 1984-85 and 2003-04, had filed tax returns in India for income generated in India.
3. During the proceedings, the NRI assessee submitted before the authorities that he did not maintain an account with a foreign bank in his personal capacity.
4. In the year 2015, the department passed a re-assessment order against the assessee.
5. The question before the Court was that whether a notice can be issued for a particular AY for concealment of foreign income since six years had lapsed.

Decision of the Case

1. Section 148 of the Act allows the tax department to send out Income Escaping Assessment notices to the taxpayer within six years from the end of the assessment year (AY) for which income has escaped assessment.
2. In the year 2012, the Income Tax Act was amended to allow the department to issue Income Escaping Assessment notices for AY 2012-13 anytime till March 31, 2019, when it comes to a taxpayer's income in India. But for income from abroad, the department is empowered to send out such a notice any time before April 1, 2029.
3. Allowing the petition, the bench held such a notice for AY 1998-99 cannot be issued in 2015 as the prescribed period of six years had lapsed in March 2005.
4. The I.T Act was amended in 2012, but before that the notice period was lapsed. So the impugned re-assessment notice was quashed and set aside.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

| Date | Return Type |
|--------------------------------|--|
| 31 st March, 2019 | Due date of TRAN-1 is extended for certain taxpayers who could not complete filing due to tech glitch. |
| 31 st April, 2019 | Due date of TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch. |
| 10 th January, 2019 | GSTR-8. Monthly - E-commerce operators who are required to deduct TCS (Tax collected at source) under GST. |
| 11 th January, 2019 | GSTR-1. Monthly - Summary of outward taxable supplies where Turnover exceeds 1.5 Crore. |
| 13 th January, 2019 | GSTR-6. Monthly – Details of ITC received and distributed by ISD. |
| 20 th January, 2019 | GSTR-5. Monthly - Summary of outward taxable supplies and tax payable by Non Resident Taxable person. |
| 20 th January, 2019 | GSTR 5A. Monthly - Summary of outward taxable supplies and tax payable by OIDAR |
| 20 th January, 2019 | GSTR 3B for the Month of December, 2018 |
| 31 st January, 2019 | GSTR 1. Quarterly - Summary of outward taxable supplies where Turnover is below 1.5 Crore. |
| 31 st January, 2019 | ITC-04. Quarterly – Statement of goods dispatched or received to/from job worker. |

DIRECT TAX CALENDAR - JANUARY, 2019

07.01.2019

- Due date for deposit of Tax deducted/collected for the month of December, 2018. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
- Due date for deposit of TDS for the period October 2018 to December 2018 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

14.01.2019

- Due date for issuing TDS Certificate for tax deducted under section 194-IA & 194-IB in the month of November 2018

15.01.2019

- Due date for furnishing of Form 24G by an office of the Government where TCS for the month of December, 2018 has been paid without the production of a challan
- Quarterly statement of TCS deposited for the quarter ending December 31, 2018
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending December, 2018
- Due date for furnishing of Form 15G/15H declarations received during the quarter ending December, 2018

30.01.2019

- Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2018
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of December, 2018

31.01.2019

- Quarterly statement of TDS deposited for the quarter ending December 31, 2018
- Quarterly return of non-deduction at source by a banking company from interest on time deposit in respect of the quarter ending December 31, 2018
- Intimation under section 286(1) in Form No. 3CEAC, by a resident constituent entity of an international group whose parent is non-resident.

DIRECT TAX CALENDAR - FEBRUARY, 2019

07.02.2019

- Due date for deposit of Tax deducted/collected for the month of January, 2019. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

14.02.2019

- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of December, 2018

15.02.2019

- Due date for furnishing of Form 24G by an office of the Government where TCS for the month of January, 2019 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2018

SEMINAR DETAILS

3-Day National Seminar on Taxation
on **“Reformed Taxation System- Catalyst to Sustained Economic Growth”**
at KIIT Convention Center, Campus-6 (Kosi), KIIT University, Bhubaneswar
21st - 23rd December, 2018

The Institute of Cost Accountants of India - Tax Research Department & Bhubaneswar Chapter has successfully organized a 3-Day National Seminar on Taxation.

His Excellency, Hon'ble Governor of Odisha Professor Shri Ganeshi Lal inaugurated and graced the 3-Day National Seminar on Taxation as **“Chief Guest”** in the presence of dignitaries like, **CMA Amit Anand Apte**, President, The Institute of Cost Accountants of India, **CMA Sanjay Gupta**, Immediate Past President and Council Member, ICAI, **CMA Niranjan Mishra**, Council Member, ICAI. Shri Ganeshi Lal praised the organisers for conducting such need based seminar for updating knowledge bank Professionals and Stakeholders. To Commemorate the Seminar, the **SOUVENIR** and **HAND BOOK ON TDS** was also released.

Shri Surjya Narayan Patro, Hon'ble Cabinet Minister, Co-Operation, Food Supplies & Consumer Welfare, Govt of Odisha inaugurated and graced the Second day of the 3-Day National Seminar on Taxation as **“Chief Guest”**. He also released two publications of Tax Research Department of the Institute namely **COMPILATION OF GST NOTIFICATIONS AND CIRCULARS** and **HAND BOOK ON E WAY BILL** on this occasion. During his address he also highlighted about the role and responsibility of CMAs on reformation of taxation system of the State and the country. He also assured to explore the possibilities for inclusion of Cost and Management Accountants for conducting Co-operative Audit of the State. He gave away the certificates to eminent Resource Persons of Tax Research Department of the Institute.

Day-2 of the 3-Day National Seminar on Taxation was also followed by two technical Sessions [Technical Session-II on Advance Rulings and recent cases and Session III on Cross border transactions, Shell entities, Export and Import Procedures], CFOs Meet and Cultural Programme. In the Session III, two more publications of the Tax Research Department, viz **INTERNATIONAL TAXATION AND TRASFER PRICING** and **EXPORT UNDER GST** were also released.

Shri Bhartruhari Mahtab, Hon'ble Member of Parliament, Lok Sabha, Odisha Inaugurated Day-3 of 3-Day National Seminar on Taxation. **Shri Shashi Bhusan Behera, Hon'ble Cabinet Minister, Finance, Excise and Public Enterprise, Govt. of Odisha** graced the occasion as **“Chief Guest”**. He also released **12th VOLUME OF BHUBANESWAR CHAPTER NEWSLETTER** and Publication of the Institute such as Guidance Notes on Special Economic Zone on the occasion. Both the guests appreciated the effort of the organizers.

3rd Day of the event was adorned with a technical session on Annual Return and Audit under GST Law. A publication on **GUIDANCE NOTE ON GST AUDIT** by Tax Research Department was released in the seminar. The Seminar was followed by the National CMA Practitioners' Convention-2018.

More than 600 delegates such as Corporate Leaders and Industry Associations, Government Departments, Regulators, Industrial Houses, CMA Professionals & Other Professional Bodies, Banks, Guests/Invitees, Representatives from Press and Electronic Medias and Financial Institutions have successfully participated in the Seminar.

GLIMPSES OF

3-Day National Seminar on Taxation by Tax Research Department & Bhubaneswar Chapter

Theme:
‘Reformed Taxation System – Catalyst to sustained Economic Growth’

His Excellency,
Hon’ble Governor
of Odisha Shri
Ganeshi Lal being
welcomed to the
3- Day National
Seminar on
Taxation in the
inaugural session
by CMA Amit A.
Apte, President
ICMAI and CMA
Sanjay Gupta,
Immediate Past
President gracing
the occasion.



Lighting of the Lamp
by His Excellency,
Hon’ble Governor of
Odisha Shri Ganeshi
Lal along with CMA
Amit A. Apte,
President ICMAI, CMA
Sanjay Gupta,
Immediate Past
President - ICMAI, CMA
Niranjan Mishra,
Central Council
Member and
Chairman – Taxation
Committee - ICMAI,
CMA Damodar
Mishra, Chairman,
ICMAI – Bhubaneswar
Chapter, CMA C
Venkata Ramana, Vice
– Chairman, ICMAI –
EIRC



Release of 'Handbook on TDS', a publication by Tax Research Department – ICAI in the hands of His Excellency, Hon'ble Governor of Odisha Shri Ganeshi Lal. Gracing the dias, CMA Shiba Prasad Padhi, Regional Council Member, ICAI – EIRC, CMA Sanjay Gupta, Immediate Past President – ICAI, CMA Amit A. Apte, President ICAI, CMA Niranjan Mishra, Central Council Member and Chairman – Taxation Committee - ICAI, CMA Damodar Mishra, Chairman, ICAI – Bhubaneswar Chapter and CMA C Venkata Ramana, Vice – Chairman, ICAI – EIRC (L-R)



Lighting of the Lamp on the 2nd day of the 3- Day National Seminar on Taxation by Shri Surjya Narayan Patro, Hon'ble Cabinet Minister, Co-Operation, Food Supplies & Consumer Welfare, Govt of Odisha along with CMA Shiba Prasad Padhi, Regional Council Member, ICAI – EIRC, CMA Amit A. Apte, President ICAI, CMA Balwinder Singh, Vice - President ICAI, CMA Damodar Mishra, Chairman, ICAI – Bhubaneswar Chapter and CMA Mihir Kumar Mahapatra, Past Chairman, ICAI – Cuttack Jagatsinghpur Kendrapara Chapter



Release of 'Compilation of Notification of GST', a publication by Tax Research Department – ICMAI in the hands of Shri Surjya Narayan Patro, Hon'ble Cabinet Minister, Co-Operation, Food Supplies & Consumer Welfare, Govt of Odisha. Gracing the dias are CMA Shiba Prasad Padhi, Regional Council Member, ICMAI – EIRC, CMA Balwinder Singh, Vice - President ICMAI, CMA Amit A. Apte, President ICMAI, CMA Niranjan Mishra, Central Council Member and Chairman – Taxation Committee - ICMAI, CMA Damodar Mishra, Chairman, ICMAI – Bhubaneswar Chapter and CMA Mihir Kumar Mahapatra, Past Chairman, ICMAI – Cuttack Jagatsighpur Kendrapara Chapter. (L-R)



Lighting of the Lamp on the 3rd day of the 3- Day National Seminar on Taxation by Shri Bhartruhari Mahtab, Hon'ble Member of Parliament, Lok sabha, Odisha. Gracing the dias are CMA Shiba Prasad Padhi, Regional Council Member, ICMAI – EIRC, CMA P. Raju Iyer, Central Council Member and Chairman, Professional Development and CPD Committee – ICMAI, CMA Amit A. Apte, President ICMAI, CMA Damodar Mishra, Chairman, ICMAI – Bhubaneswar Chapter and CMA Niranjan Mishra, Central Council Member and Chairman – Taxation Committee – ICMAI. (L-R)



CMA Amit A. Apte, President ICMAI, felicitating Shri Sashi Bhushan Behera, Hon'ble Cabinet Minister, Finance, Excise and Public Enterprise, Govt of Odisha during the 3rd day of the 3- Day National Seminar on Taxation. Gracing the dias are CMA P. Raju Iyer, Central Council Member and Chairman, Professional Development and CPD Committee – ICMAI, CMA Amit A. Apte, President ICMAI, CMA Niranjan Mishra, Central Council Member and Chairman – Taxation Committee – ICMAI and CMA Damodar Mishra, Chairman, ICMAI – Bhubaneshwar Chapter (L-R)



A Group Photo during inaugural ceremony of 3rd Day of the 3- Day National Seminar on Taxation.



Cross – section of the audience with senior dignitaries gracing with their presence. CMA Shiba Prasad Kar, Past Chairman, Bhubaneswar Chapter, CMA Pranab Chakraborty, Secretary, ICAI-EIRC, CMA P. Raju Iyer, Central Council Member and Chairman, Professional Development and CPD Committee – ICAI, CMA Manas Kumar Thakur, Past President – ICAI, CMA Suresh Chandra Mohanty, Past President – ICAI, CMA Biswarup Basu, Central Council Member and Chairman Members in Industry Committee, CMA Amal Kumar Das Past President – ICAI and others. (L-R)

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Disclaimer:

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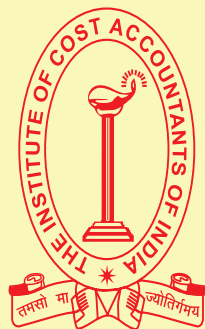
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