

MARCH, 2020

TAX Bulletin

★ ★ VOLUME - 60 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

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MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

Objectives of Taxation Committees:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
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 and also Crash Courses on GST for Colleges and Universities.

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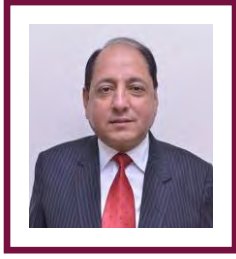
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjan Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

We would like to start with extending best wishes to all the candidates of Avichi College, Chennai who have successfully cleared the Crash Course on GST introduced by Tax Research Department for Colleges and Universities.

The department had conducted Webinars on the topics “Steps for E-invoicing Role Out in GST” on 06.03.2020 by CMA B M Gupta and on “Interest on delayed payment-gross liability (Or net Liability)-Section-50(1) & Related issues & Preparedness for the new returns under GST” by CMA Vishwanath Bhat on 13.03.2020. We are optimistic that these sessions are being of much help for the learners.

The Advanced Certificate Course on GST has commenced from 05.03.2020 and Certificate Course on Return Filing and Certificate Course on TDS commenced from 13.03.2020. We wish a happy learning session to all the enrolled candidates. The department has also launched the 58th and 59th Bulletin.

We would also like to brief the status of the representations submitted in August and September 2019 by our Institute for inclusion of Cost Accountants in the definition of “Accountant”. The Direct Tax Code is currently on hold by the Ministry of Finance. We are in regular touch with the Ministry and we are confident that our representations will be considered before the release of Direct Tax Code.

In the end, we would like to express our gratitude for the continuous cooperation and support received from all our resource contributors, members, and students for providing valuable inputs on a regular basis for knowledge enhancement of the profession.

Jai Hind

(Rakesh Bhalla)

CMA Rakesh Bhalla
17th March 2020

CMA Niranjan Mishra
17th March 2020

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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 / trd.ad1@icmai.in



GST – ON BEAT, OFF – BEAT AND BACK BEAT

CMA (Dr.) Ashish Prakash Thatte
Council Member
The Institute of Cost Accountants of India

Invoice-1

Usually we always discuss topics which are current and may be important for recent changes. In this articles of On-Beat, Off Beat and Back Beat we will discuss various topics which may be nit very much importance in GST today but will come in limelight in future. Of-course having said this, topics of current importance will also be covered as On Beat topics but besides that Off Beat and Back Beat Topics also intended to cover.

In typical Western music 4 by 4 time, counted as "1 2 3 4, 1 2 3 4...", the first beat of the bar (downbeat) is usually the strongest accent in the melody and the likeliest place for a chord change, the third is the next strongest: these are "on" beats. The second and fourth are weaker—the "off-beats". Subdivisions (like eighth notes) that fall between the pulse beats are even weaker and these, if used frequently in a rhythm, can also make it "off-beat" A back beat, or backbeat, is a syncopated accentuation on the "off" beat. In a simple 4 by 4 rhythm these are beats 2 and 4. Wiki has good knowledge of music and we will try to cover topics of all beats possible in this series. Let's move to First Topic i. e Invoice.

Section 31 of CGST Act refers to Invoice and details needed for Invoice and further Rule 46 to Rule 55 deals with Invoice related matters. Section and Rules needs lot of interpretations and further clarified by various Case Laws/ Advance Ruling etc. We will see some aspects of Invoice this time. Today's focus is on Continuous supply of Goods and Services and its time of issuing invoice.

Invoice to be issued in case of Continuous Supply of Goods: We refer Section 2(32) wherein Definition of Continuous Supply says "*continuous supply of goods*" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;". Hence it's very clear that Supply to be continuous can be by any mode and should be continuously and recurrent basis under a contract. The issues arises what is the time of supply and when to issue invoice under such circumstances.

From above definition it is clear that goods like Pipe Line Gas, Mineral Water Bottles etc can be supplied as continuous supply in normal course of business and issuing Invoice each time on supply of goods is quite difficult. Hence it can be said that periodic issue of Invoice is solution to the same. Hence we should have enabling provisions in Section 31 for the same. Section 31(4) says "*In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.*" Hence we can conclude that after a specific period invoice can be issued and each delivery can actually happen on the basis of Delivery Challan. Usually normal practice in case of Goods is to issue Invoice after each supply but in case of Continuous Supply the same can be followed as per Principles given in Section 31 (4). It is also critical to see principle given for statement to be issued by Supplier. Therefore not necessarily that every month end on last date invoice is to be issued but also in case if Statement issued in 10 or 15 days invoice can be issued along with the statement. So say all continuous supplies made in the month of January and if statement is to be issued after 10 days under specific contract for such continuous supply then Invoice can be issued along with statement i.e on 15th Feb and can be shown in Return for the month of February. Needless to say in case of Advance Payment is received the same will be governed by provisions of Rule 50 of CGST Rules, 2017 for Receipt Voucher and Rule 51 for Refund Voucher. The same is mentioned in Section 31(3)(d) which is read as follows: "*a registered person shall, on receipt of advance payment with*

respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;”

Further in case of HP India Sales (P) Ltd AAR Maharashtra and Further AAAR Maharashtra also resolved query related to Mixed Supply and Composite Supply in Continuous Supply of Goods, Time of Supply of Goods and Invoice.

Invoice to be issued in case of Continuous Supply of Services: We refer Section 2(33) wherein Definition of Continuous Supply says ““continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;”. Hence it’s very clear that Continuous Supply of services is quite different from Continuous Supply of Goods. In case of goods there is no such condition for contract 3 months exceeding 3 months with periodic payments. Hence application of Continuous supply of Services becomes more complicated than Goods.

There can be various services falling under Continuous Supply of Services like Many types of Contract Services, Telephone and Communication services can be covered here. Even in case of supply of services for many times a day it is allowed to issue one invoice at end of the day but this discussion for Continuous supply for more than 3 months as defined in Section 2(34). For the Invoice to be issued for Continuous supply of Services Section 31(5) is relevant. The section is as follows “ *Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—*

- a) *where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;*
- b) *where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;*
- c) *where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.”*

In case of Continuous Supply of Services the time of issue of Invoice is given clearly in 3 conditions which echo principles of time of supply of services.

In a typical metal factory end to end system solutions for controlled casting of iron and steel which includes supply of refractory components and associated services is considered as Continuous Supply provided that contract is for more than 3 months, as it was held in AAT of West Bengal in case of Vesuvius India Ltd. Similarly Renting of Properties through Lease is considered as Continuous Services u/s 2(33) and time of supply is based on principles given in Section 31(5) or Section 13(2) as the case may be as held in Chennai Port Trust AAR, Tamilnadu.

In an interesting case of Safari Retreats (P) Ltd. Vs Chief Commissioner of CGST Hon. High Court of Orissa refused to allow 17(5) blocked credits to be applied on rental income by company. Wherein petitioner constructed Shopping Mall and used huge quantities of materials and taxes were paid. Later in Petitioner rented out units of said mall and claimed ITC on the same. The below para from judgement given different angle altogether to definition of Continuous Supply of Services and widens its scope to business as whole. The para i in the judgement is as follows “ *The interpretation of Section 17(5) (d) of both CGST Act and OGST Act which leads to the conclusion that on the facts and circumstances of the present case the petitioner No.1 is not entitled to avail the benefit of taking input tax credit while paying CGST and OGST on rent received from different tenants of the shopping mall, clearly goes against the intention of the Legislature and also frustrates the object sought to be achieved by the Legislature in enacting the said CGST Act and OGST Act. It is an undisputed fact that CGST Act and OGST Act are implemented to obviate the cascading effect of various indirect taxes and to reduce multiplicity of indirect taxes. It cannot be disputed that in the business of the petitioner No.1 Company right from the starting point of construction of the shopping mall and upto letting out of different units of the said shopping mall, there is no break in the business activity of the petitioner and it is a continuous business of the petitioner No.1 and the supply of services to the tenants of the shopping mall are a continuous supply of services as defined in Section 2 (33) of the CGST Act and OGST Act. There is also no break or interruption in the tax chain. Therefore, when there is no break in supply of services, which implies the continuation of the business activity of the petitioner No. 1 and there is no break in the tax chain and if that is the undisputed clear position then by interpreting Section 17(5) (d) of both CGST Act and*

OGST Act, the authorities under both the Acts cannot contend that in the middle of the business the petitioner No.1 is not entitled to take credit of input tax, against the CGST and OGST paid on rent received from the tenants of the shopping mall and such an interpretation clearly goes against the intention of the Legislature and also frustrates the object for which the aforesaid Acts were enacted. Such an interpretation will debar those taxable persons like the petitioner No.1, who carry on a continuous business without any break but in spite of that they would be treated differently being denied the benefit of taking input tax credit as available to those taxable person under Section 16 of both CGST Act and OGST Act and such classification of taxable persons into two category even though both have continuous business activities and both have an unbroken tax chain is a clear violation of the fundamental rights of the petitioner as guaranteed under Article 14 and 19(1) (g) of the Constitution of India”

Typical in Accounting world contracts are entered into for supply of services like GST Consulting or Internal Audit which are continuous in nature. In such case payment is received at end of year in case contract specifies the same or it may be periodical payments after a Month or Quarter etc. In all such cases principles laid down in Section 31(5) needs to be followed for time of issue of Invoice.

Hence we can conclude that Continuous supply of Services and Goods is possible alternative for Businesses in case of any difficulties while issuing repeated invoices. Legal provisions have provided ample scope to reduce burden on Registered Persons.



E-INVOICING: VALIDATIONS FOR YOUR IMPLEMENTATION

CMA Bhogavalli Mallikarjuna Gupta
Product Evangelist
Logo Infosoft Business Technology Private Limited

As all of you are e-invoicing is an invoice issued by the regular accounting or ERP or manually issued being validated and processed by the government portal. It will make compliance more straightforward and cost-effective as it is scheduled to update the Part A of the e-waybill and also new return formats Anx-1 and Anx-2.

It is expected to be rolled out from 1st April 2020 for all taxpayers whose turnover is above Rs 100 crores. e-invoicing can be rolled out in any of the following methods

- API Method
- Secure File Transfer Protocol (SFTP)
- Bulk Json upload
- Single Json upload

Irrespective of the method being rolled out, there are certain validations which needs to be taken care for successful rollout of e-invoicing. Given below is a list of validations that needs to taken care while rolling out and also some additional data requirements to be captured in the system.

Some of the validations which the organizations have to implement are

1. The e-invoice request Jason data has to be validated as per the Jason provided by the portal.
2. The document date should be either today's date, i.e., the date on which the IRN is being generated or one day earlier.
3. The following fields should have one of the attributes from the master data to be released
 - Document Type of Transaction
 - Supply Type

Note: As per the Sample JSON Schema the valid values for Document Type Invoice

 - Debit Note
 - Credit Note

For Supply Type of Transaction

 - Business to Business
 - Supplies to SEZ with payment
 - Supplies to SEZ without payment
 - Exports with Payment
 - Exports without Payment
 - Deemed Exports

It is surprising to note that B2G (Business to Government) has been dropped.
4. The document number should not start with "0", "/" and '-.
5. The document number should not have any alphabets in small letters if any alphabets are present.
6. Duplicate IRN Requests will not considered.
7. IRN cannot be generated for a canceled IRN.
8. IRN cannot be cancelled if an active e-waybill exists for the IRN
9. Request for IRN can be generated by the supplier of goods or services or both except in case of supplies through e-commerce operators where the e-commerce operator can generate it on behalf of the supplier.
10. IRN is not required to be generated if the supplier is registered in an SEZ
11. Backdated IRNs cannot be generated; the document date can be sysdate or one day less than sysdate

12. In the case of reverse charge transactions, even though tax liability is to be discharged by the recipient but IRN has to be generated by the supplier of the goods or services only.
13. For a generation of IRN, the recipient's GSTIN should be active.
14. In case of exports, the recipient does not have any GSTIN, in such instances GSTIN has to be mentioned as "URP" and state code is to be referred as "98".
15. In case of exports, the "Ship To" address should be considered as the place/port from where the goods are exported.
16. In case if the recipient is from SEZ, the state code should be mentioned as "96".
17. If "Shipping Party" is provided, then the transaction is deemed to be "Bill To" & "Ship To."
18. If "Dispatching Party" is provided, then the transaction is deemed to be considered as "Bill From – Dispatch Form".
19. If both "Shipping Party" and "Dispatch Party" is provided, then it is considered as "combination of both"
20. In case of debit note or credit note transactions, reference for the original invoice number has to be provided.
21. There is a validation of pin codes basis of the state selected in the address.
22. The GSTIN of the recipient should be registered and active at the time of the generation of IRN.
23. Each item should have a valid Unit Quantity Code as per the master list provided.
24. In the case of Intrastate transactions, CGST and SGST rates along with tax amount, has to be passed.
25. In the case of interstate transactions, IGST Rate and tax amount have to be passed.
26. In case of SEZ Supplies, IGST Tax rate and amount has to be passed irrespective of the location of the recipient's state.
27. In the case of export transactions, IGST Rate and the amount have to be passed.
28. Every item should have a valid HSN code from the master list and it should be of minimum 4 digits.
29. Tax rate will be validated with the tax rate master.
30. The maximum number of items in the tax invoice permitted is 1000 items.
31. Following summation validations are to be done for items
 - Taxable Value of Item = Quantity X Selling Unit Price
 - SGST Value of Item = Taxable Value of Item X SGST Rate
 - CGST Value of Item = Taxable Value of Item X CGST Rate
 - IGST Value of Item = Taxable Value of Item X IGST Rate
 - Cess Value of Item = Taxable Value of Item X Cess Rate
 - StateCess Value of Item = Taxable Value of Item X State Cess Rate
 - Non-Advol Cess Value of Item = Quantity X Non-Advol Cess Rate
 - total value of Item = Taxable Value of Item + SGST Value of Item + CGST Value of Item + IGST Value of Item + Cess Value of Item + State Cess Value of Item + Non-Advol Cess Value of Item
32. Following summation validations are to be done on Invoice total
 - Total Taxable Value = Taxable Value of all Items
 - Total SGST Value = SGST Value of all Items
 - Total CGST Value = CGST Value of all Items
 - Total IGST Value = IGST Value of all Items
 - Total Cess Value = Cess Value of all Items
 - Total State Cess Value = State Cess Value of all Items
 - Total Non-Advol Cess Value = Non-Advol Cess Value of all Items
 - Total Invoice Value = Total Taxable Value + Total SGST Value + Total CGST Value + Total IGST Value + Total Cess Value + Total State Cess Value + Total Non-Advol Cess Value - Discount Amount + Other Charges
33. e-waybill will be generated only if the suppliers and recipients GSTIN is not blocked for non-filing of returns.
34. e-waybill will not be generated for Tax invoice related to supply of Services, Debit Notes and Credit Notes
35. e-waybill will not be generated for cancelled IRN
36. e-waybill will be generated if the HSN codes given in the tax invoices has one HSN code related to goods
37. For generation of Part – A of the e-waybill, transporter id or GSTIN of the transporter is mandatory.

38. The valid values for transportation mode are
 - Road
 - Rail
 - Air
 - Ship
39. If the mode of transportation is selected and passed as “Road” then it is mandatory to provide the Vehicle Type and Vehicle Number should be provided.
40. If the mode of transportation is selected as “Air” or “Rail” or “Ship” then the transporter document number and date of transport document are mandatorily to be passed.
41. The vehicle number provided in the e-waybill should be matched with the vehicles details available in VAAHNA portal.
42. Pin codes will be validated for determining the distance and validity of the e-waybill.
43. As per JSON sample schema for Generate IRN, reference of the original invoice number and date has to be provided for the Debit / Credit Note being issued.
44. In the JSON schema, there are two different attributes for assessable value and pre-tax value. The explanation is given in case of an exchange of goods, the pre-tax amount will be value after discount if any and assessable value will be the value derived after deducting assessable value.
45. For the generation of e-waybill, vehicle type is mandatory as it will determine the validity of the e-waybill being issued and the valid values are
 - O – Over Dimension Cargo
 - R – Regular
46. In the JSON schema for Generate IRN, Qty is mentioned as optional as it is not required in case of debit or credit notes and as well as for services but mandatory for the supply of goods.
47. If any free quantity is given, the same has to be mentioned separately in the field “Free Quantity”.
48. As per the Sample JSON schema, every line has to be classified as “Goods” or “Service” the valid values for the field “IsServc.”
 - Y – Service
 - N – Goods
49. Place of supply has to be always populated with two-digit state code.
50. The version of the scheme has to always mentioned in the JSON file.

Above are some of the major validations that need to be considered for the generation of IRN. If any of the validations are missing the system will error and the common list of error codes which will be received on sending wrong data are

Error Code	Error Description
1005	Invalid Token
1007	Authentication failed. Pls. inform the helpdesk
1008	Invalid login credentials
1010	Invalid Client-ID/Client-Secret
1013	Decryption of password failed
1014	Inactive User
2139	Error while creating invoice
2140	Error while validating invoice
2141	Error while cancelling invoice
2142	Incomplete Request Parameters
2143	Invoice does not belong to the user GSTIN
2144	Document Date is not in proper format
2145	IRN is not valid
2146	Unable to create IRN, Pls. try after some time
2147	Unable to sign invoice, Pl try after some time
2148	Requested Invoice data is not available
2149	Uploaded invoice already exists
2150	Duplicate IRN
5001	Application Error, Please Contact the help desk

A new schema for the e-invoices Release 1.01 has been released on 5th March 2020 and in that some of the validations have been added and some have been dropped. It is surprising to note that in the new schema, Business to Government (B2G) has been dropped. We need to wait for the final notifications on the nature of transactions being covered for e-invoicing. It is recommended to have a separate master for the type of transactions rather than hard coding it in the system.

Implementation of e-invoicing is not a simple and easy task it is going to take lot of time and it has to involve many stakeholders. As it is a time-consuming process, the early we start the better it is as it will give us enough legroom for testing of all the business cases and then rolling it over to production. There are some reports in the secondary media that e-invoicing is likely to be deferred by a quarter and it will be rolled out from 1st July 2020. It will be good if we make all the necessary changes now and then roll out as and when announced. The reason is it is going to time and once the financial year is overall the key stakeholders will be involved in the finalization of accounts and will not be able to dedicate time effectively.

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SOME OF THE RECOMMENDATIONS OF THE GST COUNCIL AND OUR COMMENTS THEREON

CMA Vishwanath Bhat
Practicing Cost & Management Accountant

The 39th GST Council met under the Chairmanship of Union Finance & Corporate Affairs Minister Smt Nirmala Sitharaman on 14/03/2020. The meeting was also attended by Union Minister of State for Finance & Corporate Affairs Sri Anurag Thakur besides Finance Ministers of States & UTs and seniors officers of the Ministry of Finance.

In this regard I have analyzed some of the recommendations as under:

- 1) Interest for delay in payment of GST to be charged on the net cash tax liability w.e.f. 01.07.2017 (Law to be amended retrospectively).

Our comments: - Number of assessees have received the notices from GST department demanding interest on Gross GST liability without giving Input Tax Credit for late submission of Form GSTR 3B under Section 50(1) of CGST Act, 2017. This will address the concerns of such assesseees and it **will mitigate litigations regarding the interest liability.**

- 2) Where registrations have been cancelled till 14.03.2020, application for revocation of cancellation of registration can be filled up to 30.06.2020 (extension of period of application as one-time measure to facilitate those who want to conduct business).

Our comments: As we know that, there was a hard ship under earlier provision for revocation of cancellation of registration. Now an opportunity is again given by the GST dept to continue the business.

- 3) Annual Return:
 - a. Relaxation to MSMEs from furnishing of Reconciliation Statement in **FORM GSTR-9C**, for the financial year 2018-19, for taxpayers having aggregate turnover below Rs. 5 crores;
 - b. Due date for filing the Annual return and the Reconciliation Statement for financial year 2018-19 to be extended to 30.06.2020; and
 - c. Late fees not to be levied for delayed filing of the Annual return and the Reconciliation Statement for financial year 2017-18 and 2018-19 for taxpayers with aggregate turnover less than Rs. 2 crores.

Our comments: Industries are still not ready with the data required to file annual return. Hence, once again the Department has extended the due date for filing annual return. And they have also given some additional relaxation to MSMEs for filing audit report. According to my opinion it is advisable to file annual return by rectifying the mistakes in monthly return. It is a good opportunity for the assesseees to declare addition / reduction in their turnover and input. It will be possible only through an audit by a professional. Hence it is better get the audit report from a professional even though it is not mandatory.

- 4) A new facility called 'Know Your Supplier' to be introduced so as to enable every registered person to have some basic information about the suppliers with whom they conduct or propose to conduct business.

Our comments: As we know from 1st Oct 2019 input is not allowed, if the assesseees have not uploaded their invoices. Hence it is better to know the background of the suppliers before dealing with them. Above provision will give lot of confidence to the assesseees.

5) Deferment of E-invoice and QR Code:

- a. Certain class of registered persons (insurance company, banking company, financial institution, non-banking financial institution, GTA, passenger transportation service etc.) to be exempted from issuing e-invoices or capturing dynamic QR code; and
- b. The dates for implementation of e-invoicing and QR Code to be extended to 01.10.2020.

Our comments: No doubt e-invoicing is the ultimate solution for matching process of invoice. Since technology is essential for e-Invoicing, it is important to fully understand the various components, identify how reliable they are, evaluate the effect of downtime, and have appropriate backup plan in place. Companies are still not ready with technology. Only a few software vendors are having e-invoicing option. In those cases also it is very difficult to tell to what extent it is tested. Hence the Council has extended the date of implementation.

6) Continuation of existing system of furnishing **FORM GSTR-1 & FORM GSTR-3B** till September, 2020.

Our comments: Once again GST Council has realized that we are still not in a position to generate the return through uploaded invoices. Hence they have extended the present system of 3b (Summary return).

ADVANCE RULING – AUGUST 2019 TO DECEMBER 2019

TEAM TRD

<u>Name of Applicant</u>	<u>Industry</u>	<u>Order No. & Date</u>	<u>Case History</u>
M/s Goa Industrial Development Corporation	Govt. Undertaking Company (GOA AAR)	GOA/GAA R/01 OF 2019-20/1875 Dated 17.10.2019	<ul style="list-style-type: none"> • M/s Goa Industrial Development Corporation, a Government of Goa Undertaking had allotted land to 7 parties for setting up Special Economic Zone (“SEZ”) via lease deed. • However, SEZ development could not be possible due to protest from the people. • As a result, deposit taken from the parties had to be refunded. However, the Applicant refused to pay compensation since nothing was mentioned in original lease Deed. • The parties approached the Supreme Court, who intervened and directed the Applicant to compensate parties with interest at the rate of 8.25%. • Finally, the applicant took back land allotted to 7 parties for setting up SEZ and refund the amount paid by SEZ parties along with interest, earned on such amounts paid by the parties amounting to Rs. 256,56,90,593/-. The question has been raised – <p><i>Is an obligation to refrain from an Act, or to tolerate an Act or a situation treated as supply of Goods/Services (Schedule II U/s 7 Scope of Supply).</i></p> <p>Answer – The compensation paid by GIDC would qualify as SUPPLY and that amount would attract Tax Liability.</p>
Sewerage & Infrastructural Development Corporation of Goa Ltd	Project Management Service Provider (GOA AAR)	GOA/GAA R/10/ 2018-19 dated 30.09.2019	<ul style="list-style-type: none"> • The Applicant has been appointed as state level nodal agency to take up sewerage projects and also responsible for implementation of various sewerage projects in GOA State. • The Applicant was responsible for overall management of all components of the project on technical, financial and contractual matters during implementation of the sewerage projects. The question has been raised – <p><i>1. Whether the Project Management services provided by applicant to recipient would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India</i></p> <p>Answer –The services provided by the applicant falls under the list of services specified under serial no. 6 of 12th schedule of Article 243W OF THE Indian Constitution, thus qualifying the admissibility criterion.</p> <p><i>2. Would supervision fees received towards such services provided by the applicant qualify as “Pure services (excluding works contract service or other composite supplies involving supply of any goods)” as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017[Notification No. FA -3-42/201711/v (53) dated 30 June 2017, as amended by Notification No. 2/2018-Central Tax (Rate) dated 25 January, 2018 issued under CGST Act, 2017 serial number 3 of Notification No. 9/2017 –Integrated Tax (Rate) dated 28.06.2017, as amended by Notification No. 2/2018 – Integrated Tax (Rate) dated 25.01.2018 and corresponding notifications issued under SGST Act?</i></p> <p>Answer – Supervision Fees received will be exempted as per above mentioned notifications.</p> <p><i>3. Whether the applicant would fall under the definition of governmental authority or Government entity</i></p> <p>Answer -Yes</p>

Chief Electrical Engineer Goa	Electricity Distributor Company (GOA AAR)	GOA/GAA R/8/2018-19 dated 18.07.2019	<ul style="list-style-type: none"> The applicant is engaged in transmission and distribution of electrical energy to the general public. The question has been raised – <i>The GST rate applicable for various works/activity undertaken by the Goa Electricity Department</i> Answer – The applicant chief electrical engineer, GOA is liable to pay CGST @ 9% and SGST @9% on various works undertaken by them except on hiring of vehicles. The applicant is liable to pay CGST @ 2.5% & SGST @2.5% or CGST @6% and SGST @6% on hiring of vehicles subject to the conditions specified in Notification No. 20/2017 –Central Tax (Rate) dated 22nd August 2017.
M/s Newtramax Healthcare	Pharmaceutical Industry (Himachal Pradesh AAR)	HP-AAR-2/2019 dated 15.11.2019	<ul style="list-style-type: none"> The applicant is engaged in Pharmaceutical Formulations The applicant has obtained license to manufacture for sale or distribution of Drugs. . The question has been raised – <i>Whether the product/s being manufacture by the applicant fall under HSN 2106 or 3004?</i> Answer – It can be classified under HSN Code 3004.
M/s Alisha Foods	Food business (M.P AAR)	MP/AAR/20/2019 dated 28.11.2019	<ul style="list-style-type: none"> The Applicant is engaged in the manufacturing business of Papad (Fryums), Namkeens and Popcorn under the brand name of Target School Times. The question has been raised – <i>What is the correct classification of Fried Fryums of differnt shapes, sizes and varieties which are ready to eat and What is the HSN Code and GST rate applicable on such goods manufactured.</i> Answer – The product ‘Fried Fryums’ is classifiable under Tariff Item 2106 90 99 of the First Schedule to the Customs Tariff Act, 1975. Goods and Service Tax rate of 18% (CGST 9% + GGST 9% or IGST 18%) is applicable to the product ‘Fried Fryums’ as enumerated under S.No. 23 of Schedule III of Notification No. 1/2017 -Central Tax (Rate) dated 28.06.2017 since amended,
M/s Bhavika bhatia	Transport Service (M.P AAR)	MP/AAR/18/2019 dated 25.09.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of providing service of hiring of vehicles under contract carriage The applicant has entered into an agreement with a Management college for transporting their students and staff under contract carriage by Non AC Bus. The question has been raised – <i>Applicability of serial no. 15(b)(HSN/SAC Code 9964) of exemption Notification No. 12/2017 (Rate) dated 28-06-2017 as amended, for said activity?</i> Answer – The service provided by the applicant is exempted from GST as per above mentioned notification.
M/s Force Motors Limited	Transport Service Provider (M.P AAR)	MP/AAR/17/2019 dated 25.09.2019	<ul style="list-style-type: none"> The applicant is engaged in making engines, chassis , gear , Boxes and other ancillary parts of Vehicle. The applicant provides also transport service for goods as well as passenger. The question has been raised – <i>Whether to classify Utility Van under chapter Heading 8703 or Chapter Heading 8704.</i> Answer – The product viz utility vehicle predominantly designed for transportation of goods confirming to the norms of category N vehicles as per automotive industry standards AIS 053 shall merit classification under chapter 8704 of the GST Tariff and shall be chargeable to GST at the rate prevailing at the time of supply
M/s Kalyan Toll Infrastructure Ltd.	(M.P AAR)	MP/AAR/16/2019 dated 25.09.2019	<ul style="list-style-type: none"> The Applicant has taken work under e-tender process by MP Power Generating Company Ltd (MPPGCL) for Balance General Civil and Related Electrical And Mechanical Works Package. The questions have been raised – <i>Whether work constitutes composite contract or is it separate contract for each work under taken?</i> Answer – The tender document in question is a not consolidated contract and each supply under the said contract shall be chargeable to tax individually, depending upon the individual classification of such supplies and rate of tax applicable at the time of supply.
M/s Madhya	Electricity	MP/AAR/1	<ul style="list-style-type: none"> The applicant is engaged in generation of electricity in M.P

Pradesh Power Generating Company Limited	Company (M.P AAR)	4/2019 dated 25.09.2019	<ul style="list-style-type: none"> The applicant is also constructing New Power Plant For generation of electricity , the applicant purchased coal from Coal India and transported to various thermal stations from coal mines. As per ministry guidelines , if coal is being transported for more than 500 kms. Then coal is to be washed to reduce ash content below 34%. The question has been raised – <i>Whether charging GST @5% of transportation services by Goods Transport Agency (GST) by road under RCM and 18% on coal beneficiation and loading charges (as stated in point no. 9 of Statement of Facts) is in compliance with the provisions of the GST Law?</i> Answer – The service of Coal beneficiation and transportation are two different supplies and they will attract different GST Rates Coal Beneficiation – GST @ 18% under SAC 9997 Transportation by a GTA by road @5% under RCM if supplier does not avail ITC. or else GST @12% . In the later case the tax is to be paid by supplier i.e transporter under SAC 9965
Emrald Heights International School	Education Service Provider (M.P AAR)	MP/AAR/13/2019 dated 20.08.2019	<ul style="list-style-type: none"> The applicant is a registered society and is engaged in promotion of education Emerald Heights School Samiti owns and runs The Emerald Heights International School The school is not registered with the Goods & Service Tax Department as it is providing education services. The school is affiliated and associated with various National and International Organizations which are mainly active to promote education and sports world wide Amongst various organizations the ‘school is also member school of an association namely “Round Square”. he members of the association organize educative conferences for Students and staff of member schools of association from time to time in line with the philosophy of the association As the Applicant is a member school of the organisation, they intend to hold one such educational conference/ gathering in India. The Applicant and the Association intend to enter into an agreement for hosting and managing the conference/gathering. The Proposed agreement clearly mentions that the school shall act as Host of the Conference in its own right as Principal and shall not be deemed to be acting as an Agent of the Association. As per the Proposed agreement, the applicant is responsible to hold the conference engaging appropriately skilled, trained and experienced personnel and sufficient financial and material resources. This shall include planning the conference, inviting the participants, arranging the accommodation, food etc., organizing and managing the events in the conference etc. Consideration for performing the above functions to cover the expenses of the conference would flow from the Round Square member schools in the form of fee along with the list of individual student and staff attendees to the Applicant. <p>The questions have been raised – 1. Will the consideration received by the school from the participant school (s) for participation of their students and staff in the conference would be exempted under No. 66 or entry No. 1 or entry No. 80 or any other entry of the Notification No. 12/2017- Central Tax (Rate) or will be chargeable to GST under CGST Act, 2017 & MP GST Act, 2017 or IGST Act, 2017?</p> <p>Answer – The consideration received by the school from the participant school(s) for participation of their students and staff in the impugned conference would not be exempted under entry No. 66 or entry No. 1 or entry No. 80 or any other entry of the Notification No.</p>

			<p>12/2017 — Central Tax (Rate) or will be chargeable to GST under CGST Act, 2017 & MP GST Act, 2017 or IGST Act, 2017? and concurrent notifications issued by the State Tax authorities.</p> <p>2.If not exempted then what would be the appropriate category of the service and the appropriate Tax Rate?</p> <p>Answer – The authority is of opinion that various services provided for organizing the impugned conference / gathering of students and staff of other Schools, shall be liable to tax at the rate applicable to the respective services.</p> <p>3.What would be the Place of Supply for such services?</p> <p>Answer – To decide the place of supply is beyond the jurisdiction of AAR</p> <p>4.Whether exemption provided to service providers of catering, security, cleaning, house-keeping, transportation etc. to an educational institution up to higher secondary be available to the service providers of the Applicant for services related to such conference.</p> <p>Answer – Authority is of the opinion that Exemption provided to service providers of catering, security, cleaning, house-keeping, transportation etc. to an educational institution up to higher secondary shall not be available for services provided for the impugned conference for which the applicant has asked for ruling.</p> <p>5.Whether ITC would be eligible of all the input services availed for the purpose of the above conference?</p> <p>Answer – On the fifth question raised by the applicant, the authority is of opinion that the provision of the act very clear that no ITC shall be available on food and catering, as rate is 5% without ITC. ITC in respect of other services shall be available as per provisions of the GST Act and the Rules.</p>
M/s. RB Shah Enterprises India Private Limited	Customs Consultant (Tamilnadu AAR)	TN/53/AA R/2019 DATED 25.11.2019	<ul style="list-style-type: none"> The applicant is engaged as a consultant & guiding the Importers & Exporters for various services related to Customs, JDGFT, CLA, etc. They organize/ use duty credit scrips while rendering consultancy service. The question has been raised – <p><i>What is the applicable rate of GST for the mentioned service provided for a whole sum price</i></p> <p>Answer – The supplies made by the applicant as enumerated in the service order of M/s. Sitaraman Shipping Service furnished before us are 'Mixed supply and the rate of tax is the highest rate applicable to the various services supplied by the applicant which is 90h CGST as per Notification No. II 2OIT-C.T.(Rate) dated 28.06.2017 as amended and 9%o SGST vide Notification No. II(4/CrR/532(d-14)/2or7 vide c.O. (Ms) No. 72 dated 29.06.2017 as amended.</p>
M/s. Kalyan Jewellers India Limited	Jewellery Manufacturer (Tamilnadu AAR)	TN/52/AA R/2019 DATED 25.11.2019	<ul style="list-style-type: none"> The Applicant is in the business of manufacturing and trading of Jewellery Products As a part of sales promotion the Applicant introduced the facility of different types of Pre-Paid Instruments(PPI's) viz., Closed System PPIs, Semi-closed System PPIs, Open System PPIs through its retail outlets , third party PPI issuers and online portals to their Customers and these are generally called "Gift Vouchers/Gift Cards" in trade practice. The questions have been raised – <p>1. <i>Whether the issue of own closed PPIs by the 'Applicant' to their customers be treated as supply of goods or supply of service</i></p> <p>Answer – The Own closed PPIs issued by the Applicant are Vouchers' as defined under CGST/TNGST Act 2017 and are a supply of goods under CGST/TNGST Act2017</p> <p>2. <i>If yes, is the time of issue of PPI's by the Applicant to their Customers is the time of supply of goods or services warranting tax liability</i></p> <p>Answer – The time of supply of such gift vouchers / gift cards by the applicant to the customers shall be the date of issue of vouchers if the vouchers are specific to any particular goods specified against the voucher. If the gift vouchers/gift cards are redeemable against any goods bought, the time of supply is the date of redemption of voucher.</p>

			<p>3.If yes, what is the applicable rate of tax for such supply of goods or services?"</p> <p>Answer – In the case of paper based gift vouchers classifiable under CTH 4911 the applicable rate is 6% CGST as per Sl. No. 132 of Schedule II of the Notification No. 1 12O17-C.T.(Rate) dated 28.06.2017 and 6oh SGST as per Sl. No. 132 of Schedule II of Notification Ms. No. II(2)/CTR 532(d-4)12017 vide G.O. (Ms) No.62 dated 29.06.2017 as amended. In the case of gift cards classifiable under CTH 8523 the applicable rate is is 9% CGST as per Sl. No. 382 of Schedule III of the Notification No. II2O17-C.T.(Rate) dated 28.06.2017 and 9oh SGST asper Sl. No. 382 of Schedule III of Notification Ms. No. II(2)/CTR/532(d-4)12017vide G.O. (Ms) No. 62 dated29.06.2017.</p>
M/S. Sree Varalakshmi Mahaal LLP	Leasing Business (Tamilnadu AAR)	TN/51/AAR/2019 DATED 25.11.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of leasing out the building (Marriage Hall) with all amenities for short term period. The question has been raised – <i>Whether the Input Tax Credit available spent for construction of building materials can be claimed and utilize to nullify the cascading effect of taxation?</i> <p>Answer – No Input Tax Credit is available against any goods or services received by the applicant for construction of the Marriage Hall on his own account even if used in course or furtherance of his business of renting the place</p>
M/s. CMC Vellore Association	Medical and Health Care Services. (Tamilnadu AAR)	TN/50/AAR/2019 DATED 25.11.2019	<ul style="list-style-type: none"> The 'Applicant' is engaged in provision of Health Care services to both inpatients and out-patients. The questions have been raised – <p>1. <i>Tax liability on medicines supplied to in-patients through pharmacy</i> Answer – Medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service.</p> <p>2. <i>Tax liability on the medicines, drugs, stents, implants, etc administered to in-patients during the medical treatment or procedure</i> Answer – Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of Notification no 2/2O17-C.T. (rate) dated28.06.2017 as amended and Notification No. II (21 / CfR/ 532(d-151 / 2O17vide G.,C. (Ms) No. 73 dated 29.06.2017 as amended is exempted from CGST and SGST as per Sl No 74 of the above notifications respectively</p>
M/s Tamil Nadu Coop Silk Producers Federation Ltd	Handloom Supplier (Tamilnadu AAR)	TN/49/AAR/2019 dated 22.10.2019	<ul style="list-style-type: none"> The applicant is a co-operative society and engaged in the wholesale business of supply of Silk to Silk Handloom Weavers <p><i>Whether TDS provision under GST Act is applicable to the Co-operative Society since it is Registered under Tamil Nadu Cooperative Society Act of 1975 and not under society registration act 1860 (21 of 1860)</i></p> <p>Answer – Central Tax Notification No. 33/2017. C.T dated 15.09.2017 as amended and state tax notification no. II(2)/CTR/783(c-3) /2017 vide G.O (Ms.) No. 107 dated 15.09.2017 as amended is not applicable to applicant</p>
M/s Pushpa Rani Pabbi	Parking lot services (PUNJAB AAR)	AAR/GST/PB/011 Dated 06.09.2019	<ul style="list-style-type: none"> The applicant has been appointed as a contractor for providing parking lot services at the place of the market committee at Jalandhar. The following question has been raised <p><i>Whether the parking lot services provided by the Contractor appointed by the Market Committee, which is a Government Authority is exempt under Notification No.12/ 2017 as the parking lot activity is covered under Article 243 of the Constitution.</i></p> <p>Answer - The parking services provided by the Contractor appointed by the Market Committee, are not exempt under Notification No. 12/2017 as the Market Committee is not a Government Authority. Marketing Committee (Mandi Board) does not qualify under the definition as provided in clause 2(zf) of the notes appended to Notification No.12/2017. The activity / services of parking provided by</p>

			the applicant falls under heading 9967 and attracts GST @ 18% (CGST 9 % + SGST 9 %).
S.P.Singla Constructions Pvt. Ltd.	Construction, Activity (PUNJAB AAR)	AAR/GST/PB/010 Dated - 06.09. 2019	<ul style="list-style-type: none"> The Applicant is engaged as a sub-contractor to the main Contractors who have been awarded the construction contracts pertaining to construction/widening of roads by the Government/ Government Entities such as National Highway Authority of India. In some point, the Applicant is also appointed as the main Contractor for carrying out the activity of construction, erection, commissioning, installation of bridges by the Government/ Government Entities. The following question has been raised <i>What is the classification of the “Works-Contract” Service pertaining to construction, erection, commissioning and completion of Bridges provided by the Applicant as a sub-contractor to the contractors’ contacts pertaining to construction/widening of roads by the Government Entitles such as NHAI?</i> Answer: The services pertaining to construction, erection, commissioning and completion of 'Bridges' provided by the applicant as a sub-contractor in respect of construction contract pertaining to construction / widening of road by the National Highway Authority of India falls under the scope of Serial No. 3(iv) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) and attracts GST @ 12% (CGST 6% + SGST 6%).
M/s. Kalis Sparkling Water Private Limited	Fruit Juice Manufacturer (Tamilnadu AAR)	TN/48/AA R/2019 dated 17.10.2019	<ul style="list-style-type: none"> The applicant engaged in manufacture of beverages with fruit juice and without milk. The following questions have been raised <i>1. Whether their product K juice Grape fail under category of fruit beverages or fruit based drinks?</i> Answer: Not answered <i>2. What is the rate of tax and HSN code for their product name?</i> Answer: Applicable Tax Rate 28% and HSN Code 22021090 <i>3. Is there any preserved percentage of fruit or pulp in the beverages to call them as carbonated fruit beverages or drinks under GST Act?</i> Answer: Not answered
M/S Tata Projects Limited	Composite Supply of Goods (Tamilnadu AAR)	TN/47/AA R/2019 dated 16.10.2019	<ul style="list-style-type: none"> The applicant is involved in the process of design and detailed engineering of Integrated Cryogenic Engine and Stage test facility for satellite launch vehicle program. The following questions have been raised <i>1. Whether Supply of Engineering, Procurement & Construction (EPC) contract for establishment of Integrated Cryogenic Engine & Stage Test facility (ICET) where in both goods and services are supplied can be construed to be a Composite Supply in terms of Section 2(30) of CGST Act, 2017?</i> Answer: The supply as specified in the contract between the applicant and the ISRO Propulsion Complex Mahedragiri for establishment of Integrated Cryogenic Engine & Stage Test Facility wherein both goods and services supplied is a composite supply in terms of section 2(30) of CGST Act 2017 <i>2. If Yes, Whether the Principal Supply in such case can be said to be “Establishment of Fluids Servicing System (FSS)” can be taxable at 5% GST vide notification No. 45/2017-Central Tax (Rate) dt 14th November, 2017?</i> Answer: This supply is a works contract in terms of section 2(119) of CGST and TNGST Act 2017 and hence Notification No. 45/2017 Central Tax (Rate) dated 14.11.2017 and corresponding SGST Notification vide G.O (MS) No. 161 is not applicable. <i>3. If Principal Supply taxable at 5%, whether the entire transaction in the contract is taxed as per the rate applicable to Principal Supply</i> Answer: The entire transactions are taxable at the rate applicable to this supply of works contract
M/s. Royal Care	Health Care Services	TN/46/AA R/2019	<ul style="list-style-type: none"> The applicant has stated that they are engaged in the health care service sector providing comprehensive patient care of

Speciality Hospitals Ltd	(Tamilnadu AAR)	dated 26.09.2019	<p>International quality standards</p> <ul style="list-style-type: none"> • They intend to create a sustainable health care system for the people of this region which shall be one of the most contemporary healthcare facilities with the latest infrastructure to deliver treatment as per the latest advances in modern medicine. • They have categorized the patients as Out Patients and In-patients for the administrative convenience. • The inpatients are provided with stay facilities, medicines, consumables, surgical and implants, dietary food and other surgeries/procedures required for the treatment. The following questions have been raised <p><i>1. Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment would be considered as "Composite Supply" and accordingly eligible for exemption under the category "Health Care Services?"</i></p> <p>Answer: Medicines, consumables and implants used in the course of providing health care services to in-patients by the applicant is a composite supply of Inpatient Services classifiable under SAC 999311. Supply of health care services or inpatient services by the applicant as defined in Para 2(zg) of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended is exempted from CGST and SGST as per SI No 74 of the above notifications respectively.</p> <p><i>2. Whether ITC is eligible for obligatory services provided to In-patients through outsourcing</i></p> <p>Answer: The applicant is not eligible for the credit of tax paid on the Input services used exclusively for providing exempt services of health services to in patients such as laundry services used for in patients. For Input services such as housekeeping, leasing of equipment used for both exempt supply of health services to in patients and taxable supply of medicines etc. to outpatients, the appropriate ITC eligible is determined by Rule 42 of the CGST Rules 2017 and TNSGST Rules as amended read with Section 17(2) of CGST/TNGST Act 2017.</p>
M/s. Chennai Port trust	Supply of port services (Tamilnadu AAR)	TN/45/AA R/2019 dated 26.09.2019	<ul style="list-style-type: none"> • The Applicant is engaged in supply of port services and incidental supply of goods like disposal of discarded assets. The following question has been raised- <p><i>Whether on the facts and in the circumstances given in the application, when the time of supply can be considered to occur with respect to providing continuous supply of services in the nature of renting of immovable properties in situations</i></p> <p>Answer: In all the specified scenarios in the question, when the license for renting of immovable property is in force, but the licensee does not pay or pays only partially the periodical license fee to the applicant as agreed in the lease agreement, if the rent invoice is issued before the due date of payment as specified in the agreement, the Time of supply as determined by Section 13(2) (a) shall be date of issue of invoice or Rent Claim Advice. If the invoice is issued after such due date of payment, the Time of supply as determined by Section 13(2) (b) shall be the date of provision of service which is the end of recurrent period specified in the agreement, after which the rent/licence fee is to be paid.</p>
Shri. Krishnaiahsetty Murali (Proprietor M/s. Murali Mogan Firm)	Procurement of Tamarind fruit (Tamilnadu AAR)	TN/43/AA R/2019 dated 26.09.2019	<ul style="list-style-type: none"> • The applicant is engaged in procuring Tamarind fruit from the farmers across Tamil Nadu. The following question has been raised- <p><i>Classification for the supply of "Tamarind Fruit (undried)"</i></p> <p>Answer: Tamarind supplied by the applicant which has not undergone the process of direct drying in sun or by industrial process is classifiable under CTH "08109020".</p>
M/s. Shifa Hospitals	HEALTH CARE SERVICES (Tamilnadu AAR)	TN/42/AA R/2019 dated 23.09.2019	<ul style="list-style-type: none"> • The applicant is engaged in providing health care services to both out-patients and in-patients. In-Patients are those who are admitted in to the hospital for their diagnosis and treatments • The in-patients are provided with the facilities like stay inside

			<p>the hospital rooms, diagnosis services, treatments including surgical treatments, post-surgery treatments, medicines, consumables, implants, dietary food etc. The following question has been raised-</p> <p><i>Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment would be considered as "Composite Supply" and accordingly eligible for exemption under the category "Health Care Services?"</i></p> <p>Answer: Medicines, consumables and implants used in the course of providing health care services to in-patients by the applicant is a composite supply of Inpatient Services classifiable under SAC 999311. Supply of health care services or inpatient services by the applicant as defined in Para 2(zg) of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended is exempted from CGST and SGST as per SI No 74 of the above notification respectively.</p>
M/s. Rich Dairy Products (India) Pvt Ltd	Fruit Juice Manufacturer (Tamilnadu AAR)	TN/41/AA R/2019 dated 23.09.2019	<ul style="list-style-type: none"> The applicant is manufacturer of fruit juices and also carbonated fruit juices. The following question has been raised- <p><i>Whether Carbonated Fruit Juice falls under Fruit Juices or Aerated drinks?</i></p> <p>Answer: The products to be supplied by the applicant are to be classified as 'Richyaa Darner Lemon' and 'Licta Lemon' are classifiable under CTH 22021020 and all others i.e. 'Richyaa Darner Cola', 'Licta Cola', 'Richyaa Darner Jeera Soda', 'Licta Jeera Masala', 'Richyaa Darner Orange' and 'Licta Orange' are classifiable as 'Other' under CTH 22021090</p>
HP India Private Limited	Import and Sale of IT Products (Tamilnadu AAR)	TN/40/AA R/2019 dated 28.08.2019	<ul style="list-style-type: none"> The applicant is engaged in the import and sale of IT products primarily personal computers (i.e., desktops and laptops) and printers. The following question has been raised- <p><i>What is the rate of GST applicable on supply of desktops consisting of CPU, monitor, Keyboard and mouse or any combination of input/output unit?</i></p> <p>Answer: The GST Rate is 18% if all the units are supplied together with the CPU in a single supply.</p>
Mrs Manju Devi, (M/s M.D. Enterprise)	Labour supplier. (Rajasthan AAR)	RAJ/AAR/2019-20/29 Dated 18.12.2019	<ul style="list-style-type: none"> The applicant is in the business of supply of manpower The applicant supplied labour to one of his clients for the purpose of working in agriculture farms. <p>The questions have been raised –</p> <p><i>Whether exemption of "Supply of Farm Labour" as provided in Notification No. 12/2017 and Notification No. 09/2017 Integrated Tax (rate) dated 28.06.2017 is available to supplier of manpower falling under SAC 99851?</i></p> <p>Answer – Exemption available to 'supply of farm labour' services falling under Chapter heading 9986 under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 09/2017-Integrated Tax (rate) dated 28.06.2017 is not available to supply of manpower services falling under SAC 99851.</p> <p><i>Is it necessary for recipient of "Supply of Farm Labour" service to be fully engaged in agriculture and not doing any other activity?</i></p> <p><i>What type of documents/evidence is required to be kept as a supplier of manpower for availing exemption as "Supply of Farm Labour" under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 09/2017 Integrated Tax (rate) dated 28.06.2017?</i></p> <p>Answer: The Question 'b' and 'c' raised by the applicant are beyond the scope of this authority as defined under Section 97(2) of the GST Act, 2017. Hence no ruling is given.</p>
SEVK RAM SAHU, (M/s S.R.S.)	Labour service provider	RAJ/AAR/2019-20/28 Dated	M/s. S.R.S. Enterprises is engaged in Services of pure labour contract supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of

Enterprises)	(Rajasthan AAR)	18.12.2019	<p>a civil structure or any other original works under PMAY. The questions have been raised –</p> <p><i>Whether the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is applicable to the applicant and accordingly will the services provided by the applicant?</i></p> <p><i>If the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is not applicable, then what will be classification and HSN for services provided by the applicant?</i></p> <p>Answer: The services provided by way of pure labour contract supplied by the applicant for the construction of flats under Pradhan Mantri Awas Yojana (PMAY) is covered under Entry 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (as amended).</p>
M/s JVS Foods Pvt Ltd	Manufacturer and Supplier of Energy Food. (Rajasthan AAR)	AJ/AAR/2019-20/27 Dated 26.11.2019	<ul style="list-style-type: none"> The applicant is one of the Largest Manufacturer and Supplier of Energy Food, Babymix, Indiamix, Paushtik Puffs, Halwa Premixes, Khichdi Premixes, Barfi Pretmixes etc. All these products are made of various food grains and fortified with vitamin & minerals. JVS group is geared-up to produce and supply 870 MTs per day (or say 1000 MTs with sugar addition etc.) satisfying one crore children per day with a balanced diet. The question has been raised – <p><i>Whether the goods (Fortified Rice Kernel) manufactured and sold by the applicant will be fall under Chapter-10, Tariff item 1006 as Rice and description of goods 10061090 others (IGST Nil/5%, CGST Nil/2.5%, SGST Nil/2.5%)?</i></p> <p>Answer: Fortified Rice Kernels FRK. manufactured and supplied by the applicant is classifiable under HSN 19049090 and attracts GST @ 18% (SGST 9 % + CGST 9 %).</p>
M/s Geetastar Resorts Pvt Ltd	Construction Service (Rajasthan AAR)	RAJ/AAR/2019-20/26 Dated 26.11.2019	<ul style="list-style-type: none"> The applicant is engaged in hotel business. The question has been raised – <p><i>Whether Input Tax Credit on goods and services used in construction of hotel will be available to the applicant engaged in providing taxable services of hotel accommodation and related services?</i></p> <p>Answer: The jurisdictional officer (Deputy Commissioner) has submitted her comments vide letter dated 18.11.2019 which can be summarized as under: “Input tax credit of input and input services used in construction of hotel for which output supply is taxable will not be available in reference to Section 17(5)(d) of GST Act, 2017.” Since the applicant has withdrawn the application, therefore, no ruling is given.</p>
M/s Crown Tours and Travels	Tour Operator (Rajasthan AAR)	RAJ/AAR/2019-20/25 Dated 26.11.2019	<ul style="list-style-type: none"> The applicant is engaged in business of providing Tour Operator as well as 'Support Services'. In a particular set of transactions, the Applicant receives service orders from the main tour operator to provide a range of services to the passenger/ tourist. There is a contractual understanding between the tourist and the main tour operator to provide a complete packaged tour. In turn the main tour operator engages the Applicant to provide one or more of the following services (hereinafter referred as 'Ancillary Services'). The questions have been raised – <p><i>Whether the 'Ancillary Services' provided to various tour operators falls under Chapter heading 9985(i) {Supply of Tour Operator Service} or 9985 (iii) {Support Services}?</i></p> <p>Answer: The 'Ancillary Services' provided by the applicant to various tour operators falls under Chapter heading 9985 (iii) {Support Services} of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 (as amended).</p> <p><i>What is the applicable tax rate for ancillary services provided to various tour operators?</i></p> <p>Answer: The applicable rate of GST for ancillary services provided by the applicant to various tour operators is 18% (SGST 9% + CGST</p>

			9%)
M/s Chandmal Narayandas Consortium	Contractor (Rajasthan AAR)	RAJ/AAR/2019-20/24 Dated 24.10.2019	<ul style="list-style-type: none"> The applicant is a contractor and he got contract of integrated operation, maintenance and management of recreation facilities and amenities within the boundary of Subhash Udhyan (Municipal park). The questions have been raised – <i>What is applicable rate of GST on Entry Fees collected for allowing entry into Municipal Park Subhash Ushyan.</i> <i>What is applicable rate of GST on ticket charges for toy train facility provided in the park.</i> <i>What is applicable rate of GST on ticket charges for pedal boat facility provided in the park.</i> Answer: The rate of GST on fee collected for entry into Subhash Udhyan (Municipal Park), ticket charges for Toy Train facility and ticket charges for Pedal Boat facility provided in Subhash Udhyan is @18% (SGST 9% +CGST 9%).
M/s Indag Rubber Ltd	Rubber Manufacturer. (Rajasthan AAR)	RAJ/AAR/2019-20/23 Dated 21.10.2019	<ul style="list-style-type: none"> The Applicant manufactures procured tread rubber, unvulcanized rubber strip gum, universal spray cement and tyre envelopes for the tyre retreading industry. Elcom Systems Pvt. Ltd is a private company incorporated in India and is engaged in the business of repair, maintenance, overhaul, upgrade and modernization of Unmanned Aerial Vehicles (UAV). The questions have been raised – <i>Whether the applicant is eligible to claim credit of the GST charged by vendor at the time of supply of goods and services to it, which are used for carrying out the following activities for setting up of MRO facility which will be rented out:</i> a. Civil Work b. External Development Works <p>Answer: In the present case if the outward supply of the applicant is taxable on which it will be paying GST at applicable rate, it is eligible to claim credit of inputs and input services which are being used for making further taxable supply which is renting of immovable property. The fact of the case of M/s Safari Retreats are also similar to the present application. The applicant is not eligible to claim credit of the GST charged by vendor for supply of goods and services to it, which are used for carrying out the activities (Civil Work and External Developmental Works) for setting up of MRO facility.</p>
M/s Wonder Cement Ltd	Manufacturer of Cement. (Rajasthan AAR)	RAJ/AAR/2019-20/22 dated 10.10.2019	<ul style="list-style-type: none"> The applicant is a registered manufacturer cum supplier under GST engaged in the manufacture of Ordinary Portland Cement (OPC) / Portland Pozalana Cement (PPC). The questions have been raised – <i>Whether there is any 'Asset Transfer' involved which is a leviable to GST in the work of shifting & raising of transmission lines owned by RRVPNL by M/S Wonder Cement Ltd.?</i> <i>Without prejudice to the submissions made above, if there is an "Asset transfer" which is a supply under GST, then who is liable to pay GST?</i> <i>If the above GST is to be paid by the Applicant, then the same will be exempt vide Entry 4 of Notification No. 12/2017-Central Tax (rate) dated 28.6.17</i> Answer: Since the issue raised by the applicant is no more in existence after issuance of Corrigendum by RRVPNL, no advance ruling is given.
M/s T and D Electricals	Works contractor and wholesale supplier (Rajasthan AAR)	RAJ/AAR/2019-20/21 Dated 03.10.2019	<ul style="list-style-type: none"> M/s T and D Electricals is registered under GST as works contractor and wholesale supplier in Jaipur, Rajasthan. The questions have been raised – <i>Admissibility of ITC of Tax paid or deemed to have been paid;</i> <i>Whether applicant is liable to be registered</i> Answer: The question raised by the applicant pertains to GST

			registration in State of Karnataka, which is beyond the purview of this authority therefore no ruling is given.
M/s K. M. Trans-Logistics Pvt. Ltd.	Transport services Provider (Rajasthan AAR)	RAJ/AAR/2019-20/19 dated 29.08.2019	<ul style="list-style-type: none"> M/s K. M. Trans-Logistics Pvt. Ltd. is the transport service provider. The questions have been raised – <i>Admissibility of ITC of Tax paid or deemed to have been paid;</i> Answer: The applicant is a registered GTA Service provider under GST and is not exempted from paying GST. <i>Whether applicant is liable to be registered</i> Answer: Where the goods or services or both used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies as per provisions and procedure prescribed under Section 17(2) of GST Act read with Rule 42 of GST Rules, 2017.
M/s Parmod Kumar Singala	Manufacturer of Cotton (Rajasthan AAR)	RAJ/AAR/2019-20/18 Dated 22.08.2019	<ul style="list-style-type: none"> The Applicant is engaged in the business of manufacturing and production of Loose Cotton, Cotton Seeds, Cotton Seed Oil and by-product Cotton seed oil cake. The questions have been raised – <i>What will be the treatment of claiming of Input Tax Credit under Section 16 of the GST Act in regard to by-product Cotton Seed Oil Cake which is taxable at 0%?</i> Answer: As per Section 17(2) of GST Act, 2017 the amount of credit shall be restricted to so much of the input tax that is attributable to the taxable supplies including zero rated supplies. As the Cotton Seed Oil Cake is exempt from GST, the applicant has to reverse the amount of credit attributable to the supply of the Cotton Seed Oil Cake as per provisions and procedure prescribed under Section 17(2) of GST Act, 2017 read with rule 42 of GST Rules, 2017. <i>Whether the provision of Apportionment Input Tax Credit u/s 17 of GST Act will be also applicable on the by-product Cotton Seed Oil Cake?</i> Answer: The provision of Apportionment of Input Tax Credit u/s 17 of GST Act will be applicable on the byproduct Cotton Seed Oil Cake. <i>What will be the treatment of claiming of Input Tax Credit on Raw Cotton purchased from agriculturist on whom tax @ 5% is paid under Reverse Charge Mechanism?</i> Answer: The applicant is eligible to claim Input Tax Credit on Raw Cotton purchased from agriculturist on whom tax @ 5% is paid under Reverse Charge Mechanism under Section 16 of GST Act, 2017, however, the amount of credit shall be restricted to so much of the input tax that is attributable to the taxable supplies including zero rated supplies as per Section 17 (2) of GST Act, 2017. <i>What will be the treatment of claiming of Input Tax Credit on Plastic Bags (Bardana) which is only used for packing of the cotton seed oil cake?</i> Answer: The input tax credit on Plastic bags (Bardana) is eligible as per Section 16 of GST Act, 2017 but in the instant case as the applicant is using Plastic bags (Bardana) exclusively for packing of the Cotton Seed oil Cake which is exempt from GST therefore, the applicant has to reverse the input tax credit on Plastic bags (Bardana) as per provisions of Section 17 (2) of GST Act, 2017. <i>Whether the applicant has to reverse the Input Tax Credit for the period of 2017-18, 2018-19 as per the Rule 42 of the CGST Rules, 2017?</i> Answer: As the subject matter pertains to past-period therefore no ruling is given on this issue under Section 95(a) of GST Act, 2017.

Contd..... for rest of the States

E-PROCEEDINGS OF INCOME TAX (FACELESS ASSESSMENT)

TEAM TRD

“Welcome to the New Era of 'Faceless', 'Jurisdiction-less' and hopefully 'Corruption-less' E-assessment.”

E-proceedings is an electronic platform for conducting proceedings in an End to End manner and the objective is to bring transparency and efficiency in the Income Tax procedures. The e-Proceedings is available for all applicable type of notices, questionnaires, and letters issued under various sections of the IT Act by the ITD officers. The proceedings invoked as per provisions of **Section 143(1)(a)(i) to (vi)** in the electronic mode will be conducted under the e-proceedings scheme and communication will be served to the taxpayers via emails. This circular mainly provides guidance for scrutiny of those cases that will not be covered under the recently notified e-assessment scheme. The e-assessment scheme has been activated from October 8, 2019 and begins with cases requiring verification of certain specified transactions or discrepancies.

Pros and cons of ‘E-Proceeding’

Pros	Cons
Faceless assessment would reduce likelihood of corruption	Traditional offices would face trouble in uploading voluminous documents
Cost-effective for the Government	It would be difficult to explain the subject entirely in submission without physical demonstration
It would save time and efforts	Officers would draw conclusions despite not understanding the submissions
Assessment will be handled by two officers	Technical glitches on the portal would delay the submission process and size of file would be restricted to 5MB.

Structure of ‘E-Proceeding’

NeAC (National E-assessment Center) will be the top body to send all the notices and communication electronically. There are eight regional e-assessment centers (ReACs) in Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Pune, Bengaluru and Hyderabad. Under these centers, there would be four units - technical, review, assessment and verification.

The assessment unit would identify issues, seek information and analyze material to frame draft assessment orders. The verification unit would conduct inquiry, examine books of account, examine witnesses and record statements through videoconferencing. The technical unit would provide advice on legal, accounting, forensic, information technology, valuation, transfer pricing, and data analytics issues. The review unit would review the draft assessment order - whether material evidence is brought on record, points of facts and law are incorporated, application of judicial decisions is considered and the arithmetic correctness.

NeAC would assign cases to the assessment unit, verification unit and technical unit through an automated allocation system. It would then select draft assessment orders for review and allocate it to the review unit through an automated allocation system.

NeAC would provide an opportunity to the taxpayer concerned before finalizing the order. After finalizing the assessment order, it would transfer all electronic records to the jurisdictional Assessing Officer for post-assessment work such as collecting penalty.

Taxpayers will receive notices on their registered email addresses and mobile numbers. Each notice or any form of communication from the IT department will hold a document identification number (DIN).

All replies to the notices from the IT department have to be made electronically in the account in the e-filing portal and not personally or through post (unless it is an exceptional case). Assessee would have 15 days to respond to the notices.

The response shall be considered to be successfully submitted when the individual receives the acknowledgement from the National e-assessment Centre.

After receiving a reply from the taxpayer, NeAC will allocate the case to an assessing officer at the regional level through an automated system. Regional assessments requiring assistance from the verification unit or technical assistance from the technical unit shall go through the automated allocation system.

If the Regional Assessment Unit requires further information or document from the Assessee, the request will first be made to the National e-assessment centre. A draft assessment order will be sent from the Regional Unit to the National E-assessment centre. In certain cases, personal hearing would be allowed.

Hearings of the cases will be conducted exclusively through video links or any other such facility that does not require the Assessee or his/her representative to be physically present. Hopefully, new system will reduce harassment of taxpayers and would not require direct interaction with the Assessee.

Exceptions of 'E-proceeding'

The CBDT also carved out six exceptions where 'E-proceeding' facility will not be mandatory. These include:

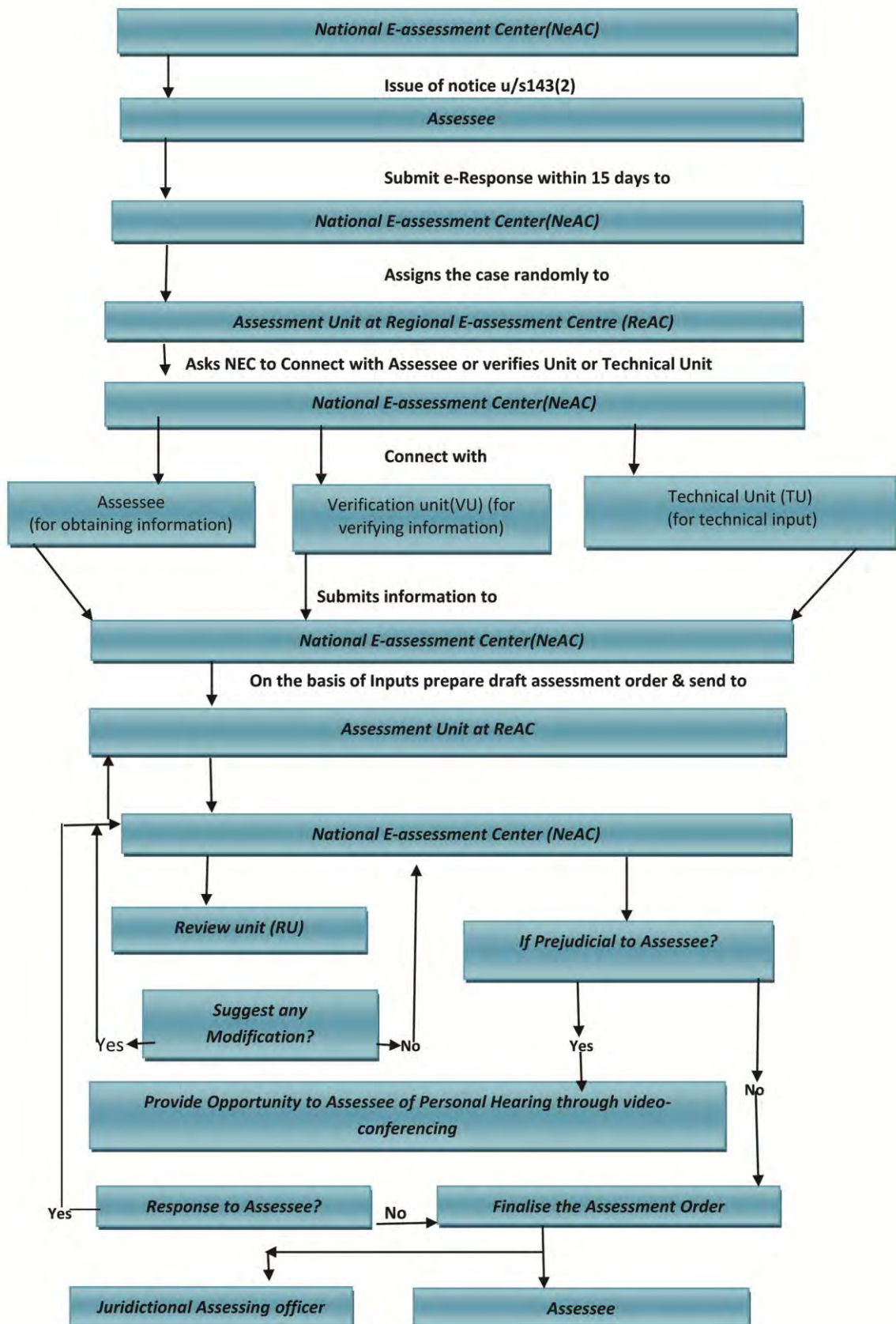
1. assessment in the course of search,
2. best judgement,
3. set-aside assessments, non-PAN cases,
4. stations with limited capacity of bandwidth and
5. extraordinary circumstances where administrative difficulties can occur.

Procedure after 'E-assessment'

The National e-assessment Centre shall, after completion of the assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over such case for:

- a) Imposition of penalty;
- b) Collection and recovery of demand;
- c) Rectification of mistake;
- d) Giving effect to appellate orders;
- e) Submission of remand report/ any other report to be furnished before CIT(A) or courts;
- f) Proposal seeking sanction for launch of prosecution and filing of complaint before the Court;

Diagrammatic presentation of the New Scheme if E-assessment 2019



TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

Customs Notifications & Circulars

Tariff Notifications

Notification No. 15/2020 - Customs
Date - 13th March, 2020

Increase effective rate of Road and Infrastructure Cess (RIC) collected as additional duty of customs on petrol and diesel

The Central Government has made an amendment amend notification No. 18/2019-Customs dated 6th July, 2019 so as to increase effective rate of Road and Infrastructure Cess (RIC) collected as additional duty of customs on petrol and diesel by ₹1 per litre

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs15-2020.pdf>

Non-Tariff Notifications

Notification No.20/2020-Custom (NT)
Date 05.03.2020

Exchange Rates Notification

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa and has been effective from 6th March, 2020

Sl.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	For Imported Goods	For Exported Goods
1	Australian Dollar	49.80	49.55
2	EURO	83.25	80.25
3	US Dollar	74.25	72.55
4	Chinese Yuan	10.75	10.40

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt20-2020.pdf;jsessionid=F22F5D9F7F78FE89A979ECCE73BED439>

Notification No.21/2020-Customs (NT)
Date 09.03.2020

Exchange Rates Notification

CBIC has made the following amendments in the Notification No.20/2020-CUSTOMS (N.T.), dated 5th March, 2020 with effect from 10th March, 2020.

Sl.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees
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(1)	(2)	(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
1	Japanese Yen	73.55	70.80

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt21-2020.pdf>;jsessionid=E9DA9320ACF06FA36A7F459A9C33251A

**Notification No.22/2020-Custom (NT)
Date 12.03.2020**

Exchange Rates Notification

CBIC has made an amendment in the Notification of the Central Board of Indirect Taxes and Customs No.20/2020-CUSTOMS (N.T.), dated 5th March, 2020 with effect from 13th March, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt22-2020.pdf>

**Notification No.23/2020-Custom (NT)
Dated 13.03.2020**

Exchange Rates Notification

CBIC has made an amendment in the Notification No.20/2020-CUSTOMS (N.T.), dated 5th March, 2020 with effect from 14th March, 2020. Amendment made in SCHEDULE-I of the said Notification, for serial No. 10 and the entries relating thereto.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt23-2020.pdf>

**Notification No.24/2020-Custom (NT)
Date 13.03.2020**

Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001.

TABLE - 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	670
2	1511 90 10	RBD Palm Oil	695
3	1511 90 90	Others – Palm Oil	683
4	1511 10 00	Crude Palmolein	698

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt24-2020.pdf>

**Notification No.25/2020 - Custom (NT)
Date 16.03.2020**

Amendment in Exchange Rates

CBIC has made an amendment in the Notification No.20/2020-CUSTOMS (N.T.), dated 5th March, 2020 with effect from 17th March, 2020, In the SCHEDULE-I of the said Notification, for serial No. 1 and the entries relating thereto.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt25-2020.pdf>

Customs – Anti Dumping Duty

Notification No. 05/2020 (ADD)

Date 7th March, 2020

Imposition of anti-dumping duty on imports of 'Chlorinated Polyvinyl Chloride (CPVC) Resin- whether or not further processed into compound' originating in or exported from China PR and Korea RP

CBIC has issued the notification regarding import of 'Chlorinated Polyvinyl Chloride Resin (CPVC)-whether or not further processed into compound, falling under heading 3904 of the First Schedule to the Customs Tariff Act, 1975, originating in, or exported from China PR and Korea RP and imported into India, The designated authority had recommended imposition of provisional anti-dumping duty on the imports of subject goods and has come to conclusion that-

- (i) the product under consideration has been exported to India from the subject countries below normal value;
- (ii) such dumped imports of the subject goods from the subject countries have caused material retardation to the establishment of the domestic industry;

and has recommended imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry.

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd05-2020.pdf;jsessionid=367A131A57DB6EF19F9CCFFA513AAF6E>

Notification No. 06/2020 – (ADD)

Date - 12.03.2020

Amendment as to extend anti-dumping duty on "Sheet Glass" originating in or exported from China PR

The Central Government has made the amendment in the notification No. 07/2015- Customs (ADD), dated the 13th March, 2015. In the notification, after paragraph 2 and before the explanation, the following paragraph shall be inserted, namely: -

“3. Notwithstanding anything contained in paragraph 2, this notification, unless revoked earlier, shall remain in force up to and inclusive of the 12th March, 2025.”

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd06-2020.pdf>

DIRECT TAX

Notifications

Notification No. 15/2020

Date – 5th March, 2020

The Central Board of Direct Taxes has made the rules further to amend the Income-tax Rules, 1962.

CBDT has made the amendments in the Income-tax Rules, 1962,

1. Short title and commencement. — These rules may be called the Income-tax (7th Amendment) Rules, 2020.
2. In the Income-tax Rules, 1962, in rule 17C, after clause (v), the following clause shall be inserted;

“(va) investment made by a person, authorized under section 4 of the Payment and Settlement Systems Act, 2007, in the equity share capital or bonds or debentures of a company which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the Reserve Bank of India for this purpose and in which at least fifty-one per cent of equity shares are held by National Payments Corporation of India.”

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification15_2020.pdf

Notification No. 16/2020

Date – 5th March, 2020

The Central Government notified the securities for the purposes of the said sub-clause.

The Central Government has notified the following securities namely; -

- (i) foreign currency denominated bond;
- (ii) unit of a Mutual Fund;
- (iii) unit of a business trust;
- (iv) foreign currency denominated equity share of a company;
- (v) unit of Alternative Investment Fund,

which are listed on a recognized stock exchange located in any International Financial Services Centre in accordance with the regulations made by the Securities and Exchange Board of India under the Securities and Exchange Board of India Act 1992 (15 of 1992) or the International Financial Services Centres Authority under the International Financial Services Centers Authority Act 2019.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification16_2020.pdf

Circulars

Circulars No. – 7/2020

Date – 4th March, 2020

Clarifications on provisions of the Direct Tax Vivad se Vishwas Bill, 2020

During the Union Budget, 2020 presentation, the 'Vivad se Vishwas' Scheme was announced to provide for dispute resolution in respect of pending income tax litigation. Vivad se Vishwas Bill, 2020 was introduced in the Lok Sabha on 5th Feb, 2020.

The objective of Vivad se Vishwas is to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to Vivad se Vishwas have been proposed. These amendments seek to widen the scope of Vivad se Vishwas and reduce the compliance burden on taxpayers.

After introduction of Vivad se Vishwas in Lok Sabha, several queries have been received from the stakeholders for clarifications in respect of various provisions. Government has considered these queries and decided to clarify as frequently asked questions (FAQs).

These clarifications are subject to approval and passing of Vivad se Vishwas by the Parliament and receiving assent of the Hon'ble president of India.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/circular/circular_no_7_2020.pdf

Corrigendum to Circulars No. – 04/2020

Date – 5th March, 2020

Tax Deduction from Salaries during the Financial Year 2019-20 under Section 192 of the Income Tax Act, 1961

Modification has made in Circular No.04/2020 dated 16th January, 2020, under heading "Method of Tax Collection"

For more details, please follow:

https://www.incometaxindia.gov.in/communications/circular/corrignedum_cir4_2020.pdf

PRESS RELEASE

DIRECT TAX

PRESS RELEASE

Date – 2nd March, 2020

Income Tax Department conducts search on a group of individuals, Hawala dealers and businessmen in Raipur

On 27.02.2020, Income Tax Department conducted a search on a group of individuals, Hawala dealers and businessmen in Raipur. The search action was mounted on the basis of credible inputs, intelligence and evidence of generation of huge unaccounted cash from liquor and mining business and transfer of the same to public servants, huge cash deposits during demonetization period, accommodation entries from shell companies, undisclosed investment in properties etc. Subsequently, based on evidences found during search, a few other premises were also covered in consequential actions. Incriminating documents and electronic data seized during the search show that substantial amount of illegal gratification was being paid to public servants and others every month. Further, daily details of unaccounted sales, bank accounts opened in the names of employees having transactions worth crores and an unaccounted bank account have been found. Details of Benami vehicles, Hawala transfers, transfer to Kolkata-based companies and creation of shell companies with huge land bank have also been found and seized. Search has also resulted in seizure of substantial amount of cash. The total unaccounted transactions unearthed till date are over Rs. 150 crores and the figure is likely to substantially increase after the seized evidences and leads found during the search are further scrutinized and investigated. The search action and investigations are continuing and a number of Prohibitory Orders have been placed, including on several bank lockers.

PRESS RELEASE

Date – 4th March, 2020

TDS Surveys by Income Tax Department unearths huge defaults in deduction and deposit.

In a major breakthrough, the TDS wing of the Income Tax Department has unearthed default of tax deducted at source (TDS) of Rs. 324 crores in the case of a major Telecom Operator in Delhi. The company did not make the required TDS of 10% u/s 194J of the Income-tax Act, 1961 on technical contracts worth Rs. 4000 crores. The amount is further liable to go up once the enquiry is completed. Several hospitals of the city were found openly flouting the norms of TDS and tax collected at source (TCS) and were paying less tax to the Income Tax Department. During the survey, at two premier hospitals, one with more than 2500 bed capacity and the other with 700 bed capacity, it was found that the former was not making any TDS on construction contracts as statutorily required u/s 194C/ 194J, while the latter was deducting tax at the rate of 10% only on salary paid to the doctors, instead of the present TDS rate of 30% applicable for salary payments. Enquiries during the survey revealed that the terms of appointment between the hospital and the doctors indicated an employer-employee relationship on which the hospital was required to deduct tax at 30% instead of 10% as was being made by the hospital. TDS defaults of Rs. 70 crores and Rs. 20 crores respectively were detected in the said hospitals. Further enquiry revealed that the hospitals were also not making the required TDS at 10% from the maintenance charges paid for the hitech sophisticated operation theatre and diagnostic equipments. Furthermore, it was seen that many hospitals were still not complying with the TCS norms which came into effect from June 1, 2016 under which, on any cash payment received in excess of Rs. 2 lakhs, the hospital was required to collect TCS @1% and deposit it to the Government account. In another TDS survey conducted on a prominent Real Estate Group in Delhi in the first week of the March, 2020, after credible data analysis of previous years, analysis of TDS compliance patterns by the various group companies, their ITR filings and tax auditor reports and real time data generated by CPC-TDS, it was seen that the deductor having already deducted tax in earlier years, had not deposited the deducted taxes in government account. During the survey, verification and analysis indicated outstanding TDS liability and interest payable of Rs. 214 crores. Major TDS default related to the payment of interest on outstanding loans. The Real Estate Company had taken huge loans on which interest payments were credited from time to time, TDS was duly deducted during various

financial years but was not deposited to Government account. Since it was a case of non-compliance, interest at the rate of 1.5% for every month or part of the month is to be paid from the date on which such tax is deducted to the date on which such tax is actually deposited to Government account. In another action by the TDS Wing of the Department, TDS default of approximately Rs. 3200 crores was detected in the case of a major oil company pursuant to survey u/s 133A of the Act. The defaults included short deduction of tax and non-deduction of tax respectively. Short deduction of tax pertained to TDS u/s 194J for several years on payment of Fee for Technical Services for installation and maintenance of high tech oil refineries, payments for chemical process of regasification and transportation of LNG. Default of non-deduction was detected on composite contracts involving service and purchase of products on which TDS @2% should have been deducted but which was not deducted resulting in the said default. The Income Tax Department has, in recent times, stepped up enforcement action against TDS default cases as this category of revenue contributes to over 45% of the total direct tax collection in the country. As per Rules, the TDS has to be paid to the credit of the central government within seven days from the end of the month in which the deduction is made.

PRESS RELEASE

Date – 5th March, 2020

CBDT issues FAQs on Direct Tax Vivad se Vishwas Scheme, 2020.

The ‘Vivad se Vishwas’ Scheme was announced during the Union Budget, 2020, to provide for dispute resolution in respect of pending income tax litigation. Pursuant to the Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 (hereinafter called Vivad se Vishwas) was introduced in the Lok Sabha on 5th of February, 2020 and passed by it on 4th of March, 2020. The objective of Vivad se Vishwas is to inter alia reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process. Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to Vivad se Vishwas have been proposed. These amendments seek to widen the scope of Vivad se Vishwas and reduce the compliance burden on taxpayers. After introduction of Vivad se Vishwas in Lok Sabha, several queries have been received from the stakeholders seeking clarifications in respect of various provisions contained in the Scheme. After considering various queries received from stakeholders, CBDT has clarified the same in the form of answers to frequently asked questions (FAQs) vide Circular No.7/2020 dated 04.03.2020. The FAQs contain clarifications on scope/eligibility, calculation of disputed tax, procedure related to payment of disputed tax and consequential benefits to the declarant. These FAQs are available on the official website of the Income Tax Department at https://www.incometaxindia.gov.in/communications/circular/circular_no_7_2020.pdf. It is reiterated that these clarifications are, however, subject to approval and passing of Vivad se Vishwas by the Parliament and receiving assent of the Hon’ble President of India.

JUDGEMENTS

INDIRECT TAX

Goods supplied under Turnkey Contract shall not be included in Value of Contract: AAR

M/S Vihan Enterprises vs. AAR Madhya Pradesh

Case No. – 24/2019

Date – 16.01.2020

Fact of the Case

- In the present case M/S Vihan Enterprises is the applicant
- The applicant is engaged in inter alia, in construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line and associated feeder bay work on the total Turnkey basis under World Bank Financing for Rewa Ultra Mega Solar Limited.
- The question is the following questions were raised before the Authority in the application: Whether the explanation to Entry No. 234 of Schedule I to Notification No. 01/2017 – Central Tax (Rate), as amended from time to time, shall apply to the construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line and associated feeder bay work on total Turnkey basis under World Bank Financing
- Again the question raised whether the value of all the goods supplied under the contract, independent of the Works Contract being executed in the contract shall form part of the Works Contract and taxed as service or not

Decision of the Case

- If the goods of a solar power generating system are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of notification No. 11/2017 Central Tax (Rate)
- The value of supply of goods for its purposes stated that out of the gross value of the supply, 70% shall be deemed to be on account of goods and 30% was deemed to be on account of service in certain cases.
- Joint Commissioners observed that splitting the value of the supply into goods and

supplies is in Entry No. 234 and not in Entry No. 38.

- The contention that the supply of the goods in Entry No. 234 is essential is further supplanted by the inclusion of the explanation in Entry No. 234. 7.10
- Therefore, it appears that in case of a Works Contract, the explanation to Entry No. 234 shall apply if and only if, the goods the title in which is/are being transferred during the execution of Works Contract find a place in Entry No. 234. Works Contract in relation to any of the goods listed in Entry No. 234, where such goods are not part of the Works Contract shall not merit taxation under Entry No. 234.

GST not applicable on ‘Mobilization Advance’ received in Pre-GST Era: AAR

M/s.Shapoorji Pallonji and Co. Pvt. Ltd vs. Tamilnadu AAR

Case No. – 03/ ARA /2020

Date – 31.01.2020

Fact of the Case

- In the present case M/s.Shapoorji Pallonji and Co.Pvt.Ltd is the applicant and registered under the GST.
- They are primarily engaged in the construction business dealing with various clients under composite Works Contracts involving the supply of both materials (goods) and service.
- The Applicant has stated that they had entered into an agreement, for the construction of the Service and Teaching Facility at CMC. As per the Agreement CMC was required to pay ‘Mobilization Advance to the applicant, which would be equivalent to 5 percent of the contract price in two tranches of 2.5 percent each totally amounting to Rs.15,83,72, 000/-.
- They have also stated that both tranches of Mobilization Advance were paid to them by CMC during the Pre-GST regime. On receipt of ‘Mobilization Advance, the applicant had paid Service tax, as the same was leviable/payable under Sec.66B read with Sec.67 of the Finance Act, 1994.

Decision of the Case

- The authority observed that the applicant has raised the invoice to the full Mobilisation Advance received by them and is, therefore, deemed to have supplied works contract service to CMC prior to I-7-2017 to the extent covered by the Mobilisation advance that stood credited to its account as per Section 13 of the GST Act.
- The authority further observed that the 'Supply of Works Contract' is deemed to be a service under GST. Under the pre-GST regime, service tax was leviable on the service portion of the Works Contract.
- The bench also said that the like situations are more aptly covered under the transition provision at Section 742(11)(b) wherein it is stated that no tax is payable on services under the GST Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act.
- Therefore, we conclude that GST is not payable on the Mobilisation advance which has been received prior to GST implementation as per Section 142(11)(b) of the Act.

.....
Madhya Pradesh Vidyut Vitran is eligible for Exemption for Services received under Panchayat Unit: AAR

Madhya Pradesh Vidyut Vitran Co. Ltd vs. AAR Madhya Pradesh

Case No. – 23/2019
Date – 16.01.2020

Fact of the Case

- In the present case Madhya Pradesh Vidyut Vitran Co. Ltd is the applicant
- The applicant is engaged in the supply and distribution of electricity, and the electrification work in rural areas. The applicant availed the required services from the M/s Prime one Work Force Pvt. Ltd. for the supply of unskilled, semi-skilled and skilled manpower required for various work having a direct relation with a distribution of electricity under the jurisdiction of Ujjain and Indore Commissionerate.
- The applicant filed the application to the Authority of Advance Ruling (AAR) so as to know whether the provision of S. No. 3 of the table of Notification No. 12/17, Central Tax Rate on the service received by the applicant from the M/s Prime one WorkForce Pvt. Ltd.,

which is a pure service and does not include contract services or any other composite services pertaining to the supply of any goods and services are exempted services or not?

Decision of the Case

- The Authority of Advance Ruling (AAR) comprising of Joint Commissioner, Manoj Kumar Choubey and Virendra Kumar Jain ruled that Madhya Pradesh Vidyut Vitran Co. Ltd is eligible for the exemption for the services received under Panchayat Unit.
- As the services were pure services and did not include contract services or any other composite services pertaining to the supply of any goods and services.
- The Authority also stated that the exemption claimed by the applicant would only be applicable to the services received under the Panchayat Unit. This ruling is only valid provided that the provisions under Section 103(2) are valid until the exemption is declared void under Section 104(1) of the Goods and Service Tax (GST) Act.

.....
No ITC on Goods and Services received and used in Construction of Warehouse: AAR

M/S Unity Traders vs. AAR Madhya Pradesh

Case No. – 26/2019
Date – 10.02.2020

Fact of the Case

- In the present case M/S Unity Traders is the applicant
- The present application has been filed u/s 97 of the Central Goods and Services Act, 2017 and MP Goods and Services Act, 2017 on 12.11.2019 by M/S Unity Traders for having the benefit of ITC.
- The Applicant, M/S. Unity Traders is a partnership firm engaged in providing Clearing and forwarding Agent Service. As a C&F Agent, the firm stores goods of other companies and charges Rent for the same.
- The firm has two GSTR numbers, one for the unit located in Jabalpur (M.P.) & another for the unit located in Raipur (C.G.). The Revenue from the operation of the firm consists of the following:
 1. C&F Commission,
 2. Warehouse Rent and
 3. Other reimbursement freight etc.

Decision of the Case

- The honourable bench observed that the Section 16 of CGST Act, 2017, every registered person shall entitle for ITC subject to such conditions and restriction as may be prescribed and also the Section 17(5) of CGST Act, the Input tax credit shall not be available on the goods and services or both received by a taxable person for construction of an immovable property (other than plant or machinery)
- The authority also said that the applicant has wrongly interpreted the Section to avail the benefit of inadmissible ITC and it is not allowed as per the Section 17(5) (d)
- The bench further said that the applicant constructed the building/warehouse which is an immovable property and as per the exclusion clause 17(5) (d) of CGST Act, 2017, the input tax credit is not available on the goods and services used in the construction of building/warehouse.

.....

AAR affirms Newtown Kolkata Development Authority is a 'Local Authority' and entitled to Exemption on Service

Newtown Kolkata Development Authority vs. W.B AAR

Case No. – 47 of 2019
Date – 09/12/2019

Fact of the Case

- In the present case the applicant namely Newtown Kolkata Development Authority (NKDA) is a Statutory Authority under the NKDA Act.
- It is engaged in discharging the municipal function, despite the fact that it is not actually the municipality as per Article 243Q of the constitution of India.
- The applicant is also engaged in providing various civic amenities such as water supply, drainage, sewage, collection, removal, and disposal of solid waste, etc. The Applicant has the power to collect various taxes, fees, charges, etc. All such taxes, fees, and charges are credited to the 'Development Fund' constituted under Section 19 of the Newtown Kolkata Development Authority (NKDA) Act.
- The Applicant, therefore, claims that the exemptions available to a local authority under the various entries of the Exemption Notification should apply to its services also.

Decision of the Case

- The West Bengal Authority of Advance Ruling (AAR) comprising of Member West Bengal Authority for Advance Ruling Susmita Bhattacharya and Parthasarathi Dey
- AAR of W.B ruled that NKDA is a 'Local Authority' under Section 2(69)(c) of the Goods and Service Tax (GST) Act and is entitled to the benefit of the exemption on the services.

DIRECT TAX

Supreme Court directs Tax Authorities to give Cognizant an opportunity to explain its positions on a Two years Old Tax Dispute

Cognizant Technology Solutions India Pvt. Ltd vs, Deputy Commissioner of Income Tax

Case No. – 1992 of 2020
Date – 4th March 2020

Fact of the Case

- The Cognizant Technology Solutions India Pvt. Ltd. Is the applicant in the present case.
- The applicant is engaged in the business of development of computer software and related services. In the Financial Year 2016-17, the appellant approached the High Court with a Scheme of Arrangement and Compromise under Sections 391 to 393 of the Companies Act, 1956 to buy-back its shares.
- The Authority for Advance Ruling (AAR) under Section 245Q of the Act seeking a ruling on the issue whether the appellant was liable to pay tax on buy-back of its shares under Section 115QA or Section 115-O or any other provision of the Act.
- The appellant challenged the communication by filing Writ Petition in the High Court submitting inter alia that while the issue was pending before the AAR under Section 245Q of the Act. It was also submitted that the appellant was never put to notice that it would be liable under Section 115-O of the Act.

Decision of the Case

- The Single Judge by his decision dated 25.06.2019 dismissed the Writ Petition as not being maintainable and relegated the appellant to avail the remedy before the Appellate Authority under the Act.

- The Cognizant contented that the share repurchase transaction should fall under the ambit of capital gains and not dividend distribution, according to a counsel present in court. In 2018 Cognizant had appealed to the Madras HC against the department over its 3,300 crore tax claim.
- The Supreme Court had directed Cognizant to deposit 15 percent of the amount, but later the petition was dismissed, asking Cognizant to approach the income tax appellate authority.
- The Supreme court directed tax authorities to give cognizant an opportunity to explain its positions on a two-year-old tax dispute.

.....
Reimbursement of Equipment Lost in Hole is Capital Receipt: ITAT
M/S Nabors Drilling International Limited vs. Deputy Commissioner of Income Tax
Case No. – 1216/Mum/2019
Date – 05/03/2020

Fact of the Case

- The assessee is a company incorporated in Bermuda and engaged in the business of providing services or facilities in connection with the prospecting or extraction or production of mineral oils and natural gas.
- The assessee's income is computed in accordance with provisions of section 44BB of the Income Tax Act wherein 10% on receipts would be deemed to be the income of the assessee for the year under consideration.
- The Assessing Officer, during the course of the assessment proceedings, proposed to include the reimbursement received by the company on account of equipment Lost in Hole towards the gross income.
- On appeal, the Commissioner of Income Tax (Appeals), has accepted the contentions of the assessee. Aggrieved by the order, the department approached the Tribunal.
- The assessee contended that, Lost in Hole means destruction and loss of capital assets which are provided by the assessee to oil exploration and production companies and therefore, the amount received on account of the loss of equipment does not form part of income in the hands of the assessee, rather it is a mere reimbursement of the cost of equipment destroyed in the process of oil extraction.

Decision of the Case

- Upholding the findings of the first appellate authority, the Tribunal noted that “We find

that the Id CITA duly appreciated the contentions of the assessee and decided the issue in favour of the assessee.

- The Mumbai bench of the Income Tax Appellate Tribunal (ITAT) has held that the reimbursement received by the assessee-Company on account of equipment Lost in Hole is in the nature of capital receipt which should be excluded from the gross receipts for the purpose of section 44BB of the Income Tax Act, 1961.

.....
Addition for Unexplained Cash Credit can't be merely on Suspicion: ITAT

Girish Madhukar Rathi vs. Deputy Commissioner of Income Tax

Case No. – 184/Pun/2017
Date – 05/03/2020

Fact of the Case

- The assessee, the son of Shri Madhukar Rathi, filed his income tax return for the relevant assessment year.
- The Assessing Officer rejected the return by invoking Section 68 of the Income Tax Act, 1961 and held that the assessee has Running Account in matters of taking and repayment of loans from his father Shri Madhukar Rathi. Further, it is also discussed that Shri Madhukar Rathi (father) in turn takes and repays loans from Birla family.
- The assessee failed to secure relief from the first appellate authority, approached the Tribunal.

Decision of the Case

- While holding in favour of the assessee, the Tribunal noted that the assessee has Running Account in matters of taking loans from Shri Madhukar Rathi (father) and Shri Madhukar Rathi in turn-taking loans from Rahul Anil Birla and Nand Sales Corporation.
- It was also observed that the said transactions are undisputedly through banking channels and the assessee repaid to the tune of Rs.1,25,50,000/- to Shri Madhukar Rathi during the relevant year.
- In the opinion of Tribunal it is the case of money laundering, non-discharge of onus by the assessee. With the loans taken from Birlas & others, Shri Madhukar Rathi is capable of providing a loan of Rs.79 lakhs to the assessee. AO has not disturbed the loans in

the cases of Birlas & others. In our view, there is no case of addition u/s 68 of the Act.

Sale through GPA Holder for a Less Consideration in favour of Children does not attract Section 50C: ITAT

Smt. R. Mangla Devi & Sri Ramesh Kumar Jain vs. Income Tax Officer , Hyderabad

Case No. – 772 and 773/Hyd/18
Date – 05.03.2020

Fact of the Case

- In the instant case, both the assesseees had purchased a property through Agreement of Sale cum GPA along with possession.
- As per the relevant documents, the sale consideration for the said land was mentioned as Rs.40 Lakhs only. Subsequently, they registered a Sale Deed in favour of their children, who are aged 22, 20 and 18 respectively.
- The Assessing Officer, while completing the assessment against the assessee, found that the sale consideration was less as per the report of the SRO and made an addition by invoking section 50C of the Act.
- On the second appeal, the Tribunal observed that the children are all students, without any source of income of their own.

Decision of the Case

- By virtue of the said Agreement of Sale cum GPA, the assesseees have acquired a right in the said property but have not become absolute owners of the property and by virtue of the Sale Deed dt.21-07-2008, the original owners through the GPA holders had sold the property to the children of the assesseees before us.
- Thus, it is seen that there is actually no sale of property by the assesseees before us and the Sale Deed has been executed by the original owners through GPA holders to the children of assesseees.
- Therefore, in my opinion, there is no transfer of property by the assesseees in fact it is the acquisition of property by the assesseees in the names of their children and it is not the case of transfer or gains on sale of the property.
- So the provisions of section 50C of Income Tax Act 1961 would not be applicable.

No Penalty merely on basis of Admission during Search without Incriminating Materials: ITAT

Shri Jethanand Khemchand Luhana vs. DCIT, Baroda

Case No. – 1456/Ahd/2018
Date – 04/03/2020

Fact of the Case

- In the present case the assessee is a person who lives in premises of the Dhanjimama group and a search was carried out by the I.T Department
- Inconsequent to searching the assessee filed return of income wherein he had disclosed additional income of Rs.9,98,000/-. Later, the penalty was also imposed on the assessee on the ground that he confessed before the authorities that there was concealment of income for the relevant assessment.
- Relying on a catena of decisions, the Tribunal held that solely on the basis of declaration, addition is not possible.

Decision of the Case

- Analyzing the provisions of Explanation 5A appended to section 271(1)(c), the Tribunal observed that this Explanation could be invoked if during the course of search any incriminating material representing any money, bullion, jewellery other valuables articles or things or entry in any books of accounts found during the course of the search, based on such material, addition is being made.
- when no money, bullion, jewellery or book-entry was found at the time of the search, and the only evidence against the assessee is an admission of additional income made in the statement under section 132(4) can not be treated as concealed income
- The Ahmedabad bench of the Income Tax Appellate Tribunal (ITAT) has held that the penalty under section 271(c)(1) of the Income Tax Act cannot be made merely on the basis of the declaration made by the assessee during search proceedings.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Due Date	Type of Return
20.03.2020	GSTR-5 & 5A for the month of February 2020- to be filed by the Non-Resident taxable person & OIDAR
20.03.2020	GSTR 3B - for the month of February 2020 for taxpayers having an aggregate turnover of more than Rs. 5 Crores in the previous financial year
22.03.2020	GSTR 3B - for the month of February 2020 for taxpayers having an aggregate turnover of up to Rs. 5 Crores in the previous financial year [<i>Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep</i>]
24.03.2020	GSTR 3B - for the month of February 2020 for taxpayers having an aggregate turnover of up to Rs. 5 Crores in the previous financial year [<i>Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi</i>]

DIRECT TAX CALENDAR - MARCH, 2020

02.03.2020

- Due Date for Furnishing of Challan-cum-Statement in respect of Tax Deducted Under Section 194IA, 194IB & 194M in the month of January, 2020

07.03.2020

- Due date for deposit of Tax Deducted/Collected for the month of February, 2020. However, all sum deducted/collected by an officer of the Government shall be paid to the credit of central Government on the same day where tax is paid without production of an Income Tax Challan.

15.03.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2020 has been paid without the production of a challan.
- Fourth Installment of Advance Tax for the Assessment Year 2020-21
- Due date for payment of whole of the amount of Advance Tax in respect of Assessment Year 2020-21 Assessee Cover Under Presumption Scheme of Section 44AD/44ADA.

17.03.2020

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA, 194IB & 194M in the month of January, 2020.

30.03.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB & 194M in the month of February, 2020.

31.03.2020

- Due date for linking of Aadhaar number with PAN
- Country-By-Country Report in Form No. 3CEAD for the previous year 2018-19 by a parent entity or the alternate reporting entity, resident in India, in respect of the international group of which it is a constituent of such group
- Country-By-Country Report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is 1st April, 2018 to 31st March, 2019) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report u/s 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.

DIRECT TAX CALENDAR - APRIL, 2020**07.04.2020**

- Due date for deposit of Tax deducted by an office of the government for the month of March, 2020. However, all sum deducted 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

14.04.2020

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of February, 2020

15.04.2020

- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2020.
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of March, 2020.

30.04.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2020 has been paid without the production of a challan.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2020.
- Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2020.
- Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2019 to March 31, 2020.
- Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2020.
- Due date for deposit of TDS for the period January 2020 to March 2020 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A,

PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Book	Amount (Rs.)
<i>Impact of GST on Real Estate</i>	100
<i>Handbook on GST on Service Sector</i>	250
<i>Insight into Customs - Procedure & Practice</i>	250
<i>Handbook on Works Contract</i>	100
<i>Input Tax Credit & In depth Discussion</i>	250
<i>Handbook on Impact of GST on MSME Sector</i>	100
<i>Exemptions under the Income Tax Act, 1961</i>	500
<i>Insight into Assessment including E-Assessment</i>	500
<i>Taxation on Co-operative Sector</i>	100
<i>Guidance Note on GST Annual Return & Audit</i>	500
<i>Impact on GST on Education Sector</i>	100
TOTAL	2750

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TAXATION COMMITTEES - 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.

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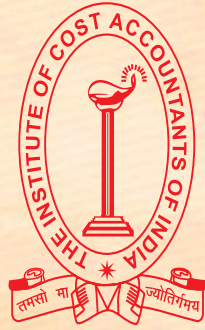
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