

TAX Bulletin

September, 2018 Volume - 24



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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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 Committee:

1. Preparation of Guidance Note and Analysis of various Tax matters for best Management Accounting Practices 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 suggestions to the Ministry from time to time for the betterment of Economic growth of the Country.
4. Evaluating opportunities for CMAs to make effective value addition to the tax-economy.
5. Designing of Certificate Course on Direct and Indirect Tax for members and stake holders.

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FROM THE DESK OF THE CHAIRMAN

Namaskar and Best Wishes!

There lies a question whether the emphasis is on making the stakeholders aware by improving their knowledge about the present economic condition. The answer of course is that it is important. It is an endeavour of the Institute of Cost Accountants of India - Tax Research Department to constantly work and re-work to help its stake-holders gain knowledge and implement them practically.

In this endeavour the steps that have been taken for this fortnight would be:

- Back ground work for launching GST 3rd Batch, Advance Course on GST, Direct Tax Course on Return Filing & TDS
- Preparation for organizing Crash Course on GST with Open University.
- Webinars have been conducted on the topics:
 - ✓ Tax Audit Under Income Tax Act - Recent Amendments & Issues
 - ✓ Specified Financial Transaction Reporting
- Planning to organize in Bhubaneswar from 21st - 23rd December 2018 “3 Days National Seminar on Taxation.”

For this time also, we are happy to learn about the generous knowledge contribution from our resource pool in form of article writing, webinars and seminars. To say that we are touched by your sincere devotion to our cause does not sufficiently express our gratitude. We are grateful for all you have done, and pledge our best efforts in continuing this service of providing the highest possible level of training and advisory to our members, students and stake-holders along with your support. Please accept our warmest heartfelt thanks.

Thank you.

A handwritten signature in blue ink, appearing to read 'Niranjana Mishra'.

CMA Niranjana Mishra
Chairman - Taxation Committee
17th September, 2018

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

Please send the articles to
trd@icmai.in / research.ad1@icmai.in



DETERMINATION OF EMPLOYEE COST IN CASE OF SHARED SERVICES

CMA T. K. Jaganathan

Practicing Cost & Management Accountant

Karnataka Advance Ruling on the issue of whether activities performed by employees at Corporate Office in course of employment for units located in other States as well shall be treated as 'supply' within the GST statute.

FINDINGS & DISCUSSION

Entry No.1. of the Schedule III which is related to the activities which are to be treated neither as a supply of goods nor supply of services reads as under:

1. "Services by an employee to the employer in the course of or in relation to his employment."

The services provided to the employer, i.e. the corporate office by the persons employed by the corporate office are in the nature of the employee-employer relationship. Further, since the corporate office and the units are distinct persons under the Act, there is no such relationship between the employees of one distinct entity with another distinct entity, at least as per the Goods and Service Tax Acts, even if they are belonging to the same legal entity.

Further, the activities made between the related persons are treated as supplies and the valuation includes all costs, the employee cost also needs to be taken into consideration at the time of valuation of goods or services provided by one distinct entity to the other distinct entities.

RULING

The activities performed by the employees at the corporate office in the course of or in relation to employment such as accounting, other administrative and IT system maintenance for the units located in the other states as well i.e. distinct persons as per Section 25(4) of the Central Goods and Services Tax Act, 2017 (CGST Act) shall be treated as supply as per Entry 2 of Schedule I of the CGST Act.

The ruling implies that companies with offices in many cities will need to raise invoices for in-house service functions and pay GST. Determination of the

Employee cost has been challenging for many and they have been opposing the taxing of the inter-state shared services.

Extract of the Companies (Cost Records and Audit) Rules, 2014 is reproduced below:

Employee Cost:-

- a) Proper records shall be maintained in respect of employee costs in such a manner as to enable the company to book these expenses cost centre wise or department wise with reference to goods or services under reference and to furnish necessary particulars. Where the employees work in such a manner that it is not possible to identify them with any specific cost centre or department, the employees cost shall be apportioned to the cost centre or service centre or departments on equitable basis and applied consistently.
- b) Employee Cost shall be ascertained taking into account the gross pay including all allowances payable along with the cost to the employer of all the benefits, including the cost of retirement benefits charged in the financial statements in an accounting period. In case of companies to which Indian Accounting Standards apply, any re-measurement of such costs recognized in other comprehensive income shall not form part of the employee cost.
- c) Bonus whether payable as a statutory minimum or on a sharing surplus shall be treated as part of employee cost. *Ex gratia* payable in lieu or in addition to bonus shall also be treated as part of the employee cost.
- d) Remuneration payable to managerial personnel including Executive Directors on the Board and other officers of a corporate body under a statue shall be considered as part of the employee cost of the year under reference whether the whole or part of the

- remuneration is computed as a per cent of profits. Remuneration paid to non-executive directors shall not form part of employee cost but shall form part of administrative overheads.
- e) Separation costs related to voluntary retirement, retrenchment, termination and other related matters shall be amortized over the period benefitting from such costs.
 - f) Employee cost shall not include imputed costs.
 - g) Cost of idle time is accounted by the idle hours multiplied by the hourly rate applicable to the idle employee or a group of employees.
 - h) Where employee cost is accounted at standard cost, variances due to normal reasons related to the idle employee cost shall be treated as part of employee cost. Variances due to abnormal reasons shall be treated as part of abnormal cost.
 - i) Subsidy or grant or incentive any such payments received or receivable with respect to any employee cost shall be reduced from cost of the cost object in the financial year when such subsidy or grant or incentive and any such payment is recognized as income.
 - j) Any abnormal cost where it is material and quantifiable shall not form part of the employee cost.
 - k) Penalties, damages paid to statutory authorities or other third parties shall not form part of the employee cost.
 - l) The cost of free housing, free conveyance and any other similar benefits provided to an employee shall be determined at the total cost of all resources consumed in providing such benefits.
 - m) Any recovery from the employee towards and any benefit provided, namely, housing shall be reduced from the employee cost.
 - n) Any change in the cost accounting principles applied for the determination of the employee cost should be made only if it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an enterprise.
 - o) Where the employee services are traceable to a cost object, such employees' cost shall be assigned to the cost object on the basis such as time consumed or number of employees engaged or other related basis or similar identifiable measures.
 - p) While determining whether a particular employee cost is chargeable to a separate cost object, the principle of materiality shall be adhered to.
 - q) Where the employee costs are not directly traceable to the cost object, the same shall be assigned on suitable basis like estimates of time based on time study.
 - r) The amortized separation costs related to voluntary retirement, retrenchment and termination or other related matters for the period shall be treated as indirect cost and assigned to the cost objects in an appropriate manner provided that unauthorized amount related to discontinued operations, shall not be treated as employee cost.
 - s) Recruitment costs, training cost and other such costs shall be treated as overheads and dealt with accordingly.
 - t) Overtime premium shall be assigned directly to the cost object or treated as overheads and dealt with accordingly.
 - u) Idle time cost shall be assigned direct to the cost object or treated as overheads depending on the economic feasibility and the specific circumstances causing such idle time.

Further reference to **Cost Accounting Standard on Employee Cost** will be handy in determination of employee cost.



CHECKLIST FOR FILING OF GSTR - 3B FOR THE MONTH OF SEPTEMBER 2018

CMA Bhogavalli Mallikarjuna Gupta

SME, Speaker, Author & Advisor on GST

One of the main features of Goods and Service Tax is the availability of the Input Tax Credit across the supply chain cycle. This statement provides very soothing sound to the trade and industry but it has certain conditions to be fulfilled to take advantage of this statement. As there is no matching for the time being as the Government has differed it, now it has become more critical to ensure that all the conditions mentioned in the Act and Rules are fulfilled and for this, the filing of the GSTR – 3B return for the month of September 2018 is very vital. As per the provisions of Sub-section 4 of Section 16 of the CGST Act 2017, input tax credit can be claimed on the tax invoices or debit notes issued by the supplier in the previous financial year for supply of goods or services or both has to be claimed by 20th October 2018 i.e. before filing of the monthly return for the month of September 2018 basis of provisions of Section 39 of the CGST Act or filing of annual return as per provisions of Section 44 whichever is earlier. As GST is rolled out from 1st July 2017, the input tax credit on all in the inward supply of goods or services or both has to be claimed by 20th October as the due date for filing of September 2018 GSTR – 3B is that date based on the provisions notified wide Notification No. 34/2018 – Central Tax dated 10th August 2018.

Basis of the above provisions it is clear that input tax credit can be claimed only for all the transaction from 1st July 2018 to 31st March 2019 by 30th September 2019.

The following are the points to be considered before filing the GSTR – 3B for the month of September 2018.

1. Verify all the tax invoices / debit notes issued as per the provisions of Section 12, 13, 14, 31 & 34 by the supplier of goods or services or both are received and accounted.
2. Verify and ensure that tax invoice is received for the goods or services or both for which input tax credit is being claimed – clause “a” of sub-section 2 of section 16 of the CGST Act 2017
3. Verify and ensure that all the goods or services or both have been received before claiming the credit – clause b of sub-section 2 of section 16 of the CGST Act 2017. Certain cases like Annual Maintenance Contracts, the invoice is issued before the completion of service and it is spread over a period of time, in such cases properly informed decisions have to be taken else the input tax credit claimed has to be reversed along with the interest if found during scrutiny or audit or as part of some investigation by the departments.
4. Verify and ensure that in case if goods are being received in lots, the final lot is received, - the first proviso of sub-section 2 of section 16 of the CGST Act 2017
5. Verify and ensure that all the information related to tax invoice or debit note is there on the documents issued by the supplier of the goods as per provisions of Rule 46 of the CGST Rules 2017 like GSTIN Numbers, date of invoice, Invoice Number, Place of Supply, HSN Code, Tax Rate and Tax Amounts are there on the tax invoice.
6. Verify and ensure that the tax amount is entered in the financials for the amount issued by the supplier on his tax invoice. Normal practice is overriding the value of the tax invoice in case of any shortages / breakages or variation in the quality etc., If any such cases exist insist for a credit note from the supplier as per provisions of Section 34 of the CGST Act 2017.
7. Verify and ensure that all such credit notes issued by the supplier are accounted accordingly.
8. Verify the time of supply for the reverse charge transactions correctly – the time of supply for reverse charge transactions is based on the conditions given in section 12 and 13 of the CGST Act. – especially for transactions where the payments or goods or received before 13th

of October 2017 and are part of the imprest statements accounted after 13th October 2017 as most of the assume that reverse charge is not applicable from this date basis of the Notification No. 38/2017 – Central Tax (Rate). But the provisions of the time of supply for reverse charge has to be considered and accounted accordingly.

9. If any of such transactions are found, pass necessary accounting entries for reverse charge including interest and pay the same.
10. Verify and ensure that tax invoices are issued for the reverse charge transactions, a single invoice can be issued for all the reverse charge transactions basis of the first proviso for Rule 46 of the CGST Rules 2017.
11. Verify and ensure that for all the advances paid to unregistered taxpayers, payment vouchers issued as per provisions of clause g of sub-section 3 of section 31 of the CGST Act 2017.
12. Verify and ensure that receipt vouchers are issued for all the customer advances till 15th November, 2017 the date on which Notification No. 66/2017 – Central Tax is issued. As per the Explanation 2 given in the Sub-section 2 of Section 12 of the CGST Act, the earlier of the dates on which the amount is deposited in the bank account or credited in the books of accounts has to be considered. Verify the bank statement and ensure that receipt vouchers are issued accordingly.
13. Where ever customer advances are returned verify if refund voucher is issued for the same or not. If not issue / generate the same preserve the same for future audit and verifications. Also ensure that accounting entries are passed in the accounting system.
14. Verify the Creditors aging statement or supplier invoices for where payment is not made partially for fully within 180 days from the Supplier's invoice date. As per the second proviso of Section 16 of CGST Act 2017 and Rule 37 of the CGST Rules, the amount of input tax credit availed has to be reversed along with interest as per provisions of Section 50 of the CGST Act. The rate of interest is notified wide Notification No. 13/2017 – Central Tax dated 28th June 2017, the rate is 18% p.a and if the same is observed and found by the department during scrutiny or audit then penalty also has to be paid @ 24% p.a.
15. Verify the date on which returns have been filed and the actual due date for filing of the returns. If the returns are filed after the due date, ensure that interest is paid for the delayed days as per the provisions of Section 50 of the CGST Act 2017, in case if the same is found out during the audit or scrutiny then penalty is also applicable along with interest.
16. Verify If all the accounting entries related to liability payment, input tax credit utilization are passed and the balances of the taxes liability, input tax credit and cash tally with the accounting ledgers and ledgers maintained at GSTIN. If there are any differences, pass necessary accounting entries for the same.
17. Verify if any debit notes have to be issued to the customers, if yes issue the same before the filing of the September 2018 monthly return else the customer cannot avail the input tax credit on it and it has to be unnecessarily absorbed in the P & L account.
18. Verify the stock as per the book balance and physical stock, if there is any difference, the input tax credit claimed has to be reversed on the shortages / differences. Input tax credit can be claimed only on the goods or services or both used or intended to be used in the course or in the furtherance of business as per the provisions of sub-section 1 of section 16 of the CGST Act and the reversal has to be done based on the provisions of clause h of sub-section 5 of section 17 of the CGST Act. There it is clearly mentioned as blocked ITC, that means input tax credit has to be reversed.
19. Verify and ensure that in case of capital goods, the date on which the input tax credit availed and the date of capitalization of the assets are same, if not pass necessary adjustments for reversal of ITC along with payment of interest in the GSTR – 3 B of September 2018 and also the necessary accounting entries. This is required due to the definition of the capital goods given in sub-section 19 of section 2 of the CGST Act 2017.
20. Ensure that ITC on all the tax invoices is claimed where ever eligible like bank charges and on business related expenses, if not claim them in the month of September before filing GSTR – 3B. For availing input tax credit on bank charges ensure that the GSTIN of the bank and taxable person's GSTIN are mentioned on the bank statement.
21. Ensure that the provisions on the blocked credit are followed else penal provisions as per section 74 will be levied if found during the

- audit or scrutiny or as part of any other investigation carried out by the departments
22. Verify and ensure that for the tax invoices issues, the provisions of Rule 46 of the CGST Rules are followed and issued basis of Section 12, 13 and 14 of the CGST Act 2017.
 23. Verify and ensure that the valuation for the tax invoices is done in accordance with provisions of Section 15 of the CGST Act and from Rule 27 to Rule 36 of CGST Rules 2017 are followed properly.
 24. Take a trial balance for the 31st march after considering all the above points and verify the GST related account balances are matching with your GST Return balances, if to find the reasons and rectify the same before the filing of the September GSTR – 3B.
 25. In case if you are having more than one registration number ensure that the financial data matches with the sum of all the states returns for outward supplies, ITC etc.
 26. If any transition credit is availed, ensure that you have all the supporting documents, in case if there are any missing documents or excess claimed, reverse the same before filing GSTR - 3B of September.
 27. In case if you feel any of the registration numbers are not used and if required you can surrender the same so that your compliance cost comes down.
 28. In case of stock transfers, reconcile the stock sent from one GSTIN and received at the other GSTIN, if there any differences rectify the same before filing GSTR – 3B
 29. In case if the stocks are transferred at a higher price and the same is sold at a lower price in the branches, ensure that there is no excess credit being held at the branches if possible issue a credit note to the branches and reduce the excess credit at the branches.
 30. Ensure that all the inward / outward / tax payable / ITC / Production / Stock registers are maintained for the financial year and in case of contracts they are maintained project wise.

31. Have a mechanism to capture all the supplier and customer data like name and address
32. In case of B2C maintain the name and address of the B2C customers for transactions above Rs 50,000.

The above some of the important points which need to be considered before the filing of the monthly return for the month of September 2018. If any transactions are found after the filing of the return, then on such transactions ITC cannot be levied and this results in cash loss indirectly to the business. All the adjustments have to be completed before 30th September 2018 in case if you have not done the above activities at the time of preparation of the financial statements for year ending 31st March 2018. In case if the books of the accounts are closed and the above are observed now, proper care has to be taken in accounting basis on the provisions of the Companies Act 2013. This being the first year of rollout of GST and the GST audit is not notified, it makes it more important to consider them while filing the September 2018 GST Returns.



GENESIS OF DIRECT TAX & IT'S REFORMS IN INDIA

CMA Anand Kumar Pandey
Practicing Cost Accountant

(A) Background

Law is Dynamic in Nature: This means that law evolves over time in order to meet the specific needs of the society in which it is operative.

During the **Rajaswa Gyan Sangam** held in September 2017, Prime Minister Narendra Modi had observed that the Income Tax Act, 1961 was drafted more than 50 years ago and needs to be re-drafted. Accordingly, to review the Act and to draft a new Direct Tax Law in consonance with economic needs of the country, the government has constituted the task force.

In this contemporary context its incumbent on all CMA'S to be ready for the next leap forward jump and thereby let's start with understanding the genesis of Income Tax with the passage of time, then only we will be in a better position to respond to the new task which we are likely to be assigned in the Income Tax.

(B) Genesis of Income Tax Law

It is a matter of general belief that taxes on income and wealth are of recent origin but there is enough evidence to show that taxes on income in some form or the other were levied even in primitive and ancient communities. It is remarkable that the present day tax system is in many ways similar to the system of taxation in vogue about 2300 years ago. Collection of Income-tax was well organised and it constituted a major part of the revenue of the every State.

Kautilya's Arthashastra, which deals with the system of taxation in a real elaborate and planned manner. This well known treatise on state crafts written sometime in 300 B.C., when the Mauryan Empire was at its glorious upwards move, is truly amazing, for its deep study of the civilization of that time and the suggestions given which should guide a king in running the State in a most efficient and fruitful manner.

The more enlightened ones like Ashoka and Akbar evolved a systematic taxation policy and also tax collection policy so as to earn revenue to run the kingdom without creating much hardship for the common man. Some kings had an arbitrary tax collection system which they used to maintain their lavish lifestyles and wage wars.

Today, in the modern economies, taxes are regulated by various rules and regulations and are monitored by the people's representatives.

(C) Chronology of Reforms

Pre- Independence

- **The Income-tax Act, 1922-** The foundation of a proper system of administration was thus laid.
- 1924, Central Board of Revenue Act constituted the Board as a statutory body with functional responsibilities for the administration of the Income-tax Act.
- World War II brought unusual profits to businessmen. During 1940 to 1947, Excess Profits Tax and Business Profits Tax were introduced.
- 1939-Directorate of Inspection (Income-tax) came into being. Excess Profits Tax introduced .
- 1941-Income-tax Appellate Tribunal came into existence

- 1946- Excess Profits Tax Act repealed.
- 1947- Business Profits Tax enacted.

Post-Independence

- 1951-**Vardhachari Commission** - Report on Income-tax Investigation. 1st Voluntary Disclosure Scheme was brought in.
- 1952-Directorate of Inspection (Investigation) set up.
- 1953-**Estate Duty Act, 1953**
- 1954, the Internal Audit Scheme was introduced in the Income-tax Department.
- **Wealth Tax Act-1957**. I.R.S. (Direct Taxes) Staff College started functioning in Nagpur.
- **The Gift-tax Act, 1958**. (ICWAI came into existence)
- **Income-tax Act, 1961**.
- 1963 - Central Board of Revenue Act, 1963 was passed. Central Board of Revenue bifurcated and a separate Board for Direct Taxes known as Central Board of Direct Taxes (CBDT) constituted under the Central Board of Revenue Act, 1963.
- In 1965, the Voluntary Disclosure Scheme was brought in followed by the 1975 Disclosure Scheme.
- 1966-Intelligence Wing created and placed under the charge of Directorate of Inspection (Investigation).
- 1968- Valuation Cell came into existence. Report of rationalization and simplification of tax structure (**Bhoothalingam Committee**) received.
- 1971- Summary Assessment Scheme introduced.
- 1972-Permanent Account Number introduced (**PAN**).
- 1974-**Interest Tax Act, 1974**
- 1978- Settlement Commission created 1978- Appellate functions given to a new cadre of Commissioners known as Commissioner (Appeals).**Chokshi Committee** submitted its final report.
- 1980- **Hotel Receipt Tax Act, 1980**.
- 1981-Computerisation in the Income-tax Department started with the setting up of the Directorate of Income tax (Systems) in 1981.
- 1982- Levy of Hotel Receipts Tax discontinued.
- 1987- **L.K. Jha** Committee set up for simplification and rationalization of tax laws.
- 1988- **Benami Transactions Prohibition Act 1988** introduced.
- 1990- **Gift tax Bill** introduced.
- 1992- Presumptive Taxation scheme introduced as a measure to widen tax base.
- 1993- Authority for Advance Rulings set up
- 1994- New **PAN** introduced.
- 1997- Presumptive tax scheme discontinued. Minimum Alternate Tax introduced.
- 1998- Gift-tax abolished for gifts made after 1.10.1998. **KarVivadSamadhan Scheme** 1998 introduced.
- 1999- **Samman Scheme** introduced in 1999 to honour deserving tax payers.
- 2000- Interest-tax Act terminated
- 2002- Computerised processing of returns all over the country introduced. **Kelkar Committee Report**, The National **Website of the Income Tax Department** (www.incometaxindia.gov.in) was launched to provide a vital interface between the Department and taxpayers.
- 2004- **Fringe Benefit Tax (FBT)** and Securities Transaction Tax (STT) introduced.
- 2005- **Banking Cash Transaction Tax (BCTT)**.
- 2006- Tax Return Preparer Scheme (TRPS).
- 2007- AayakarSeva Kendra (ASK).
- 2009- Centralized Processing Centre was setup in Bengaluru (**CPC**).
- 2010- To simplify the 50 years old Income-tax Act, 1961, '**The Direct Taxes Code Bill, 2010**' was introduced in the Parliament.
- **TRACES** (TDS Reconciliation, Accounting and Correction Enabling System).

Abolition of the Minimum Alternate Tax (**MAT**), burying the ghost of retrospective tax (the Vodafone/IT department crisis in realizing arrears of tax), phasing out tax holidays could reduce investments in SEZs, and restoration of capital gains tax treatment for buy-back of shares.

Voluntary disclosure of income Schemes (**VDIS**), Constitution of the Special Investigation Team (**SIT**) on **Black Money**, Enactment of a comprehensive new law - **The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015** to specifically deal with the issue of black money stashed abroad, Introduction of the **Benami Transactions (Prohibition) Amendment Act 2016** and **New Benami Transactions Informants Reward Scheme, 2018**, are some of the recent major initiatives of the Government in this regard

Kelkar Committee & Tax Administrative Reforms Commission (**TARC**) headed by **Dr. Parthasarathi Shome** submitted its report of reviewing the applicability of tax policies and tax laws in the context of global best practices and recommending measures for reforms required in tax administration to enhance its effectiveness and efficiency.

Direct Tax Code -2013 is still visible on the official website of Income Tax Department. This Code has modified the Definition of Accountant and includes all **CA+CS+CMA** but unfortunately the Bill has lapsed with the dissolution of the 15th Lok Sabha.

New Task Force Task Force has been constituted by the Government of India on 22nd November, 2017, the Task Force was required to submit its report to the Government within six months from the date of its constitution, i.e., 22nd May, 2018. Term of the Task Force is further extended by three months beyond the initial term of six months, i.e., the Task Force shall now be required to submit its report to the Government by 22nd August, 2018.

Since much water has flown down the bridge of drafting of New Direct Tax Code , it cannot be wished away anymore. While nomenclatures could change, call DTC by another name, but certainly urgent change is desired to align it with GST for economic needs of the country and adopt international best practices.

GST DISCLOSURE NORMS IN TAX AUDIT REPORT

TEAM TRD

New disclosure in regard to Expenditure:

- The heading of newly inserted clause 44 is 'break-up of total expenditure of entities registered or not registered under the GST'.
- Disclosure under clause 44 is required to be made by:-
 - ✓ A person who is registered under GST Law
 - ✓ A person who is not registered under GST law
 - Engaged solely in exempted supplies
 - Non-GST supplies (like petroleum products)
 - Non-supplies(stated in Schedule III to CGST Act)
 - ✓ A person who is not required to obtain registration as its aggregate turnover is below Rs. 20 lakhs.
- Thus, the tax auditors need to provide such information in respect of all the tax auditees.

The type of information as desired in clause 44 is as under: -

- Description Column No of Table to clause 44 of Revised Form 3CD
 - a) Total amount of expenditure incurred during the year 2
 - b) Expenditure in respect of entities registered under GST
 - i. Relating to goods or services exempt from GST 3
 - ii. Relating to the entities falling under composition scheme 4
 - iii. Relating to other registered entities. 5
 - iv. Total payment to registered entities 6
 - c) Expenditure relating to entities not registered under GST. 7

Discussion about each of the above heads for which information is required to be disclosed

- Total amount of expenditure incurred during the year –
 - ✓ Under the above head , total expenditure incurred during the year is required to be disclosed.
 - ✓ Apart from the expenses in Statement of Profit and Loss, the capital expenditure incurred like purchase of fixed assets is also required to be included for reporting the same in the tax audit report.
 - ✓ The expenses which are incurred not yet paid will also have to be disclosed.
- Whether expenditure on non-supplies are required to be reported?
 - ✓ The main issue is that whether the expenditure which is not incurred towards supply of any goods or service like payment of salary to employee, would be required to be disclosed or not.
 - ✓ There are two approaches.
 - Conservative Approach:- An expenditure should be disclosed as the heading does not say that 'expenditure on supply' is to be reported only. Rather it states that expenditure is to be disclosed.
 - Another Approach:-The main objective of the Central Government is to introduce this clause for matching such figures with the GST returns, wherein non-supplies are not required to be disclosed and, thus, there should be no need to disclose expenditure incurred on non-supplies. The Central Government needs to issue clarification in this regard for which it has now got time, as application of clause 44 has been deferred till 31st March, 2019.

- Whether GST amount will be included in total expenditure?
 - ✓ This is also a tricky issue. However, as the term used is total expenditure incurred, it should include the GST amount in respect of inward supply of goods or services or both. A clue which corroborates the above view is in shape of column 6 of table to clause 44 which provides for disclosure of total payment to registered entities, which naturally includes GST.

- Whether depreciation will be included in total expenditure ?
 - ✓ Under clause 44, details of expenditure are being asked for with break up between the inward supplies received from registered and unregistered suppliers. As depreciation as an expense is not towards any inward supply, the same will not be included in the total expenditure.

- Expenditure in respect of entities registered under GST –
 - ✓ Here the expenditure incurred in regard of receipt of supply of goods or services or both from registered suppliers is required to be disclosed in four sub-heads
 - Relating to exempt goods or services
The expenditure incurred by the tax auditee on goods or services or both which are exempted from GST will be disclosed here. As per Section 2(47) of the CGST Act, 2017 exempt supply means the supply of any goods or services or both which attracts NIL rate of tax or which are wholly exempted from the levy of tax under section 11, or under section 6 of the IGST Act and include non-taxable supplies. It may be noted here that activities / transactions which are not regarded as supplies as per Schedule III of the CGST Act are not required to be disclosed here.
 - Supplies from composition suppliers
In this column the expenditure incurred on inward goods or services or both received from suppliers who have opted for composition scheme under Section 10 of the CGST Act, 2017 will be mentioned. It may be noted here that details of value of inward supplies under composition scheme, exempt and NIL rated supply are also required to be disclosed in return form GSTR 3B and while disclosing data here it should be ensured as an Auditor that the total of column 5 (exempt supply) and 6 (composition scheme) matches with the figures as disclosed in GSTR 3B filed by the auditee.
 - Other registered suppliers
Under this heading the amount of expenditure incurred on inward taxable supplies of goods or services or both will be mentioned. The amount of expenditure to be disclosed here would be inclusive of GST. Further, here also it should be ensured as an Auditor that the amount disclosed tallies with the figures as disclosed in GSTR 3B filed by the auditee. However, while matching appropriate adjustment be made for GST as in GST returns the value would be depicted without GST.
 - Total payment to registered entities
Based upon the prima facie examination of the format in which details of expenditure are to be given, it appears that the total of the amounts stated in the columns 3, 4 and 5 would be stated here. However, this view is not free from doubt in view of fact that the total payment is to be disclosed here, whereas expenditure incurred is required to be mentioned in columns 3, 4 and 5. We all know that there is big difference between incurred which means accrued (even if not paid) and payment.
 - ✓ Another view that can be taken here is that the information to be given in Column 6 is independent of columns 3, 4 and 5 and here the total payment to registered persons needs to be shown. However, seeking the quantum of total payments made to the registered entities will not serve any purpose since the expenditure is normally recorded on accrual

basis. Such information is also very difficult to obtain and would pose accounting challenges. Above issue also requires to be clarified by the Central Government.

- Expenditure relating to entities not registered under GST –
 - ✓ The Columns 3, 4, 5 and 6 are in regard to expenditure incurred on inward supplies of goods or services from registered suppliers, whereas column 7 is in respect of such supplies received from unregistered suppliers. As no GST would be charged by unregistered suppliers the break up between exempt and taxable supplies has not been asked for here. It may be noted here that the expenditure incurred on imports would also be required to be included here. A question may arise here whether we need to include the expenditure incurred in respect of non-GST supplies, viz, petroleum, alcoholic liquor or not.

Some Important Aspect for GST

1. GST annual return can be filed up to 31st December by all.
2. Assessee over certain turnover limit are also subject to audit report and reconciliation.
3. Any left over transaction of output tax, ITC , ITC reversal etc , logically can be done till annual retrun.

However the following points are very important and it leads to assume September Month as very important. Nevertheless to mention here that September Month Return can be filled up to 20th of October. Hence we may assume the said date can be up to October 20. However books of account entry for any adjustments must be for September Month as last month.

Now the reasons is-

1. Any amount paid as taxes under GST law, if paid up to the return of the month September, the credit in this respect can be taken by the recipient. Not after that.
2. Each year is separate year and inter government account would be adjusted keeping September as cut off. Beyond that the taxes can be paid as liability but the benefit if such taxes can not be pass on to the recipient.
3. Tax Audit under Income Tax due date is 30th September, GST being taxes , would be allowed on actual basis. Section 43B of income tax may please be referred. Hence it is advised to estimate all taxes before completion of tax audit or 30sept. Cases where income tax audit is not applicable, even the date have been gone on 31st August.
4. Form 2A may be referred as a statement of tax credit which may not weren't any confirmation of taxes paid under law so as to enable as ITC.

Hence in order to safe tax as a cost and minimizing the cash ceding effect , it is advisable to reconcile everything as if the due date under GST for annual return and audit also 30th September.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GOODS AND SERVICES TAX

CENTRAL TAX

Notification No. 39/2018 – Central Tax
Dated: 04.09.2018

Eighth Amendment to CGST Rules, 2018

Rule 22 (Cancellation of Registration) sub rule 4 –

New proviso added

“Provided that where the person instead of replying to the notice served under sub-rule

1. for contravention of the provisions contained in clause (b) or clause (c) of sub-section
2. of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.”.

Rule 36 (Documentary requirements and conditions for claiming input tax credit) sub rule 2 –

New proviso added

“Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.”

Rule 55 (Transportation of goods without issue of invoice) sub rule 5 –.

After the words “Where the goods are being transported in a semi knocked down or completely knocked down condition completely knocked down condition”, the words “or in batches or lots” shall be inserted

Rule 89 (Application for refund of tax, interest, penalty, fees or any other amount) sub rule (4), Clause (E) - (E) “Adjusted Total Turnover” means the sum total of the value of-

- a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
 - (i) the value of exempt supplies other than zero-rated supplies; and
 - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.’.

For going through the Forms given in the Notification, please click here:

http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-39-2018-central_tax-English.pdf;jsessionid=12F4F57432D9F08C0D75F2014A6ED2B9

Notification No. 40/2018 – Central Tax
Dated: 04.09.2018

Extension of time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till the 30th day of September, 2018.

Notification No. 41/2018 – Central Tax
Dated: 04.09.2018

Late fee waived for the following classes of taxpayers:

1. The registered persons whose return in FORM GSTR-3B of the Central Goods and Services Tax Rules, 2017 for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number.
2. The registered persons who have filed the return in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal.
3. The Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018.

Notification No. 42/2018 – Central Tax
Dated: 04.09.2018

Extension of time limit for making declaration in Form ITC-01 (Form to claim ITC on Stock by the new taxpayers) who have filed the application in Form CMP-04 for opting out of composition scheme in between the date of 2nd March, 2018 to 31st March, 2018. The time limit has been extended till 3rd October, 2018.

Notification No. 43/2018 – Central Tax
Dated: 10.09.2018

Extension of time limit in filing of Form GSTR 1 for registered taxpayers having turnover upto 1.5 Crore in the preceding Financial Year or the current Financial Year

The Table below shows the time period for filing return:

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	July - September, 2017	31 st October, 2018
2	October - December, 2017	31 st October, 2018
3	January - March, 2018	31 st October, 2018
4	April – June, 2018	31 st October, 2018
5	July - September, 2018	31 st October, 2018
6	October - December, 2018	31 st January, 2018
7	January - March, 2019	30 th April, 2019

Notification No. 44/2018 – Central Tax
Dated: 10.09.2018

Extension of time limit in filing of Form GSTR 1 for registered taxpayers having turnover more than 1.5 Crore in the preceding Financial Year or the current Financial Year

The Table below shows the time period for filing return:

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	July - September, 2018	31 st October, 2018

2	October, 2018	11 th November, 2018
3	November, 2018	11 th December, 2018
4	December, 2018	11 th January, 2019
5	January, 2019	11 th February, 2019
6	February, 2019	11 th March, 2019
7	March, 2019	11 th April, 2019

Notification No. 45/2018 – Central Tax
Notification No. 46/2018 – Central Tax
Dated: 10.09.2018

For those taxpayers who will now be migrating to GST as per the procedure specified in notification No. 31/2018-Central Tax, dated 06.08.2018, the last date for furnishing the details of outward supplies of goods or services for filing the return in FORM GSTR-3B for the months of July, 2017 to November, 2018 has been extended till 31st December, 2018.

Notification No. 49/2018 – Central Tax
Dated: 10.09.2018

Ninth Amendment to CGST Rules, 2018

The Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a further period not beyond 31st March, 2019. Provided the registered persons filing the declaration in FORM GST TRAN-1 may submit the statement in FORM GST TRAN-2 by 30th April, 2019.

CIRCULARS

Circular No. 57/31/2018-GST
Dated: 04.09.2018

Scope of Principal-agent relationship in the context of Schedule I of the CGST Act

Agent - As per section 182 of the Indian Contract Act, 1872, an “agent” is a person employed to do any act for another, or to represent another in dealings with third person.

Principal - The person for whom such act is done, or who is so represented, is called the “principal

Further, the two limbs of any supply under GST are “consideration” and “in the course or furtherance of business”. Where the consideration is not extant in a transaction, such a transaction does not fall within the ambit of supply. But, in certain scenarios, as elucidated in Schedule I of the CGST Act, the key element of consideration is not required to be present for treating certain activities as supply.

Please follow the link to get the entire circular http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_No.57.pdf;jsessionid=87D899A261CE8CCB56655438225E8D64

Circular No. 58/31/2018-GST
Dated: 04.09.2018

Recovery of arrears of wrongly availed CENVAT credit under the existing law and inadmissible transitional credit

Taxpayers may reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of FORM GSTR-3B.

Circular No. 59/31/2018-GST

Dated: 04.09.2018

Clarification on refund related issues

Submission of invoices for processing of claims of refund

In view of the difficulties being faced by the claimants of refund, it has been decided that the refund claim shall be accompanied by a print-out of FORM GSTR-2A of the claimant for the relevant period for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as an evidence of the account of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. It may be noted that there may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's FORM GSTR-1 was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund.

The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-A manually along with the application for refund claim in FORM GST RFD-01A and the Application Reference Number (ARN).

Please follow the link to get the entire circular http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_No.59.pdf?sessionid=90A3DF8C9F052637090A546FB6ED2654

Circular No. 60/31/2018-GST

Dated: 04.09.2018

Processing of refund applications filed by Canteen Stores Department (CSD)

The board specifies the manner and procedure for filing and processing of such refund claims as below:

- Filing Application for Refund.

Invoice-based refund: It is clarified that the instant refund to be granted to the CSD is not for the accumulated input tax credit but refund based on the invoices of the inward supplies of goods received by them.

Manual filing of claims on a quarterly basis: Till the time the online utility for filing the refund claim is made available on the common portal, the CSD shall apply for refund by filing an application in FORM GST RFD-10A (Annexure-A to this Circular) manually to the jurisdictional tax office. The said form shall be accompanied with the following documents:

- (i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;
- (ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed; Circular No. 60/34/2018-GST Page 2 of 4
- (iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;
- (iv) Copies of FORM GSTR-2A of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR-2A; (v) Details of the bank account in which the refund amount is to be credited.

- Processing and sanction of the refund claim.
Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer
- It is clarified that the CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned.

Please follow the link to get the entire circular http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_No.60.pdf

Circular No. 61/31/2018-GST

Dated: 04.09.2018

E-way bill in case of storing of goods in godown of transporter

It has been stated that textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises.

As per rule 138 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business. Therefore, the goods in movement including when they are stored in the transporter's godown (even if the godown is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

Please follow the link to get the entire circular http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_No.61.pdf;jsessionid=47D44B81C4799EC8EDF11B3784E4185A

Circular No. 62/31/2018-GST

Dated: 12.09.2018

Levy of GST on Priority Sector Lending Certificates (PSLC)

Representations have been received requesting to clarify the following:

- (i) Mechanism for discharge of tax liability on trading of Priority Sector Lending Certificate (PSLC) for the period 1.7.2017 to 27.5.2018.
- (ii) GST rate applicable on trading of PSLCs.

The representations have been examined. With the approval of the GST Implementation Committee of the GST Council, it is clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply.

CUSTOMS

TARIFF

Notification No. 60/2018 – Customs

Dated: 11.09.2018

Provision to allow re-import of certain indigenously manufactured electronic goods, for repair and reconditioning within seven years from the date of exportation, without payment of basic customs duty subject to the condition that the goods are re-exported back after repair and reconditioning within one year from the date of re-importation.

Goods as specified in Annexure, manufactured in India and reimported into India for repairs or for reconditioning	<ol style="list-style-type: none">1. Such re-importation takes place within 7 years from the date of exportation; Provided that such re-importation takes place within 10 years from the date of exportation in case of Nepal and Bhutan.2. Goods are re-exported within one year of the date of reimportation;3. The Assistant/Deputy Commissioner of Customs is satisfied as regards identity of the goods;4. The importers at the time of importation executes a bond undertaking to –<ol style="list-style-type: none">a) export the goods after repairs or reconditioning within the period as stipulated;b) pay, on demand, in the event of his failure to comply with any of the aforesaid conditions, an amount equal to the difference between the duty levied at the time of re-import and the duty leviable on such goods at the time of importation but for the exemption contained herein”.
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Annexure

Heading or sub- heading or tariff item	Description of Goods
8443 31 00	Machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic data processing machine or to a network
8471 30, 8471 41, 8471 49 00, 8471 50 00	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included
8472 90 30	Automatic bank note dispensers
8504 40	Static converters
8517	Telephone sets including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area networks), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528
8518 40 00	Audio-frequency electric amplifiers

Follow the link to get the annexure in detail <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-tarr2018/cs60-2018.pdf>

NON TARIFF

Notification No. 77/2018-Customs (N.T)

Dated: 06.09.2018

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

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	52.75	50.45
2	Bahrain Dinar	196.30	184.10

For more details, please follow the link - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt77-2018.pdf;jsessionid=62B3163B032EE9EF29036F62E3C2A1C0>

CIRCULARS

Circular No. 31/2018-Customs

Dated: 05.09.2018

24x7 Clearance

Kind reference is invited to Board's Circular No. 19/2014 dated 31.12.2014 and 01/2016- Customs dated 6th January, 2016 on the subject cited above vide which the facility of 24x7 Customs clearance was made available at the 19 sea ports besides 17 Air Cargo Complexes.

Board has now decided that the facility of 24x7 Customs clearance for specified imports viz. goods covered by 'facilitated' Bills of Entry and specified exports viz. reefer containers with perishable/ temperature sensitive export goods sealed in the presence of Customs officials as per Circular No.13/2018-Cus dated 30.5.2018 and goods exported under free Shipping Bills will be made available at M/s Adani Kattupalli Sea port in Chennai, Tamilnadu. This would be the 20th Sea port in the country where 24x7 facility would be in operation.

Chief Commissioner of Customs, Chennai Zone is requested to deploy sufficient number of officers on 24x7 basis at the above specified port and give wide publicity to this trade facilitation measure.

PRESS RELEASE

DIRECT TAX

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Date - 1st September, 2018

Filing of Income Tax Returns registers an upsurge of 71% upto 31st August, 2018

There has been a marked improvement in the number of Income Tax Returns (ITRs) filed during FY 2018 (upto 31/08/2018, the extended due date of filing) compared to the corresponding period in the preceding year. The total number of ITRs e-filed upto 31/08/2018 was 5.42 crore as against 3.17 crore upto 31/08/2017, marking an increase of 70.86%. Almost 34.95 lakh returns were uploaded on 31/08/2018 itself, being the last date of the extended due date of filing of ITRs.

A remarkable increase is seen in the number of ITRs in 2 categories i.e. ITRs filed by salaried Individuals (ITR-1 & 2) as also those availing the benefit of the Presumptive Taxation Scheme (ITR-4).

The total number of e-returns of salaried Individual taxpayers filed till 31/08/2018 increased to 3.37 crore from 2.19 crore returns filed during the corresponding period of 2017, registering an increase of 1.18 crore returns translating into a growth of almost 54%.

A stupendous growth has been witnessed in the number of returns e-filed by persons availing the benefit of Presumptive Tax, with 1.17 crore returns having been filed upto 31st August, 2018 compared to 14.93 lakh returns upto 31st August, 2017 registering a massive increase of 681.69%.

The increase in the number of returns reveals a marked improvement in the level of voluntary compliance of taxpayers which can be attributed to several factors, including the impact of demonetization, enhanced persuasion & education of taxpayers as also the impending provision of late fee which would be effective on late filing of returns. This is indicative of an India moving steadily towards a more tax compliant society & reflects the impact of continuous leveraging of technology to improve taxpayer service delivery.

INDIRECT TAX

Subject: Extension of due dates for filing of FORM GSTR-1 and FORM GSTR-3B in certain cases

Date - 10th September, 2018

It has been observed that the number of taxpayers who have filed FORM GSTR-3B is substantially higher than the number of taxpayers who have furnished FORM GSTR-1. Non-furnishing of FORM GSTR-1 is liable to late fee and penalty as per the provisions of the GST law. In order to encourage taxpayers to furnish FORM GSTR-1, a one-time scheme to waive off late fee payable for delayed furnishing of FORM GSTR-1 for the period from July, 2017 to September, 2018 till 31.10.2018 has been launched.

In this regard, the due date for furnishing FORM GSTR-1 for the period from July, 2017 to September, 2018 has been extended till 31st October, 2018 for all registered persons having aggregate turnover above Rs 1.5 crores including the registered persons in Kerala, or whose principal place of business is in Kodagu (Karnataka) and Mahe (Puducherry). For taxpayers having aggregate turnover up to Rs 1.5 crores, the due date for furnishing FORM GSTR-1 for the quarters from July, 2017 to September, 2018 has been extended till 31st October, 2018. Notification Nos. 43 and 44/2018 - Central Tax dated 10th September, 2018 have been issued in this regard. For registered persons having aggregate turnover up to Rs 1.5 crores in Kerala, or whose principal place of business is in Kodagu (Karnataka) and Mahe (Puducherry), the due date for furnishing FORM GSTR-1 for the quarter July, 2018 to September, 2018 would continue to remain as 15th November, 2018 as notified vide notification No. 38/2018-Central Tax dated 24th August, 2018.

Further, for those taxpayers who will now be migrating to GST as per the procedure specified in notification No. 31/2018-Central Tax, dated 06.08.2018, the last date for furnishing the details of outward supplies of goods or services or both in FORM GSTR-1 and for filing the return in FORM GSTR-3B for the months of July, 2017 to November, 2018 has been extended till 31.12.2018. Notification Nos. 45, 46 and 47/2018 - Central Tax dated 10th September, 2018 have thus been issued for extension of dates for filing FORM GSTR-3B.

It is hereby clarified that as per the provisions of section 16 (4) of the Central Goods and Services Tax Act, 2017, the registered person shall not be entitled to take input tax credit in respect of any invoice after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains; or furnishing of the relevant annual return, whichever is earlier. The taxpayers are thus, advised to furnish their returns on time to ensure that input tax credit does not become time barred.

JUDGEMENTS

INDIRECT TAX

Date:- 06.08.2018

Input Tax Credit cannot be granted If Registration of Selling Dealer was cancelled: Kerala HC

C P Rasheed vs. State of Kerala

Case No. - 104 of 2015

Date:- 10.08.2018

Fact of the Case

1. The assessee, a dealer in chicken, had filed the returns for the year 2005-2006. The department conducted an audit visit in the premises of the assessee and found that the purchase disclosed in the returns were far lesser than the purchase seen from the Delivery Notes recovered.
2. The Revenue estimated the additional turnover on the basis of the value shown in the Delivery Note. Also, the input tax credit was denied to the assessee.
3. Before the High Court, the assessee contended that the cancellation of registration with respect to the three dealers was after the purchase made by the petitioner and that too was in the subsequent year.
4. It was also contended that the petitioner had made the purchases based on the registration granted by the Department.

Decision of the Case

1. The First Appellate Authority & the Tribunal stated that input tax credit is a concession permitted to avoid the cascading effect in the value added tax regime.
2. What is paid as tax at an earlier instance has to be set off in the later instance, wherein the taxation is only on the value addition.
3. While avoiding the cascading effect to the dealers, it is ensured that the State gets its dues on the rates fixed for each commodity.
4. In the instant case the selling dealer at the first instance does not pay the amounts to the Government, there can be no input tax credit claimed.
5. Obviously, the dealer at the first instance had, collected tax and not remitted the same to the Department. The State is deprived of the tax to that extent and hence there is no question of input tax credit.
6. The assessee could definitely file a suit for recovery from the entity from whom they made the purchase.
7. Having not received the tax at the first instance of sale, there is no obligation on the State to grant input tax credit.
8. The Division Bench rejected the contention of the appellant.

No Input Tax Credit for purchase of Motor Vehicles used for Cash Management Business and supplied post usage as Scrap: AAAR

M/S CMS Info Systems Ltd. vs. Maharashtra AAR

Case No. – MAH/AAR/SS-RJ/04/2018-19

Fact of the Case

1. The appellant is having cash management network pan India. As part of the business, the appellants purchased security vans popularly known as “cash carry vans” for transportation of cash. The appellant purchased raw motor vehicles and requisite fabrication, get them converted to cash carry vans. The appellant also pays GST on fabrication.
2. For this purpose, the appellant purchases the motor vehicle and pays GST. The credit of GST is not availed by the appellant presently.
3. The appellants approached the AAR seeking clarification with regard to the GST liability on supply of such motor vehicles as scrap after its usage and the availability of input Tax Credit on purchase of motor vehicles.
4. Before the appellate authority, the appellants contended that although in general understanding, what is being transported by the appellants is currency or cash or money, from the Appellant’s point of view or for the appellant, what is transported is ‘goods’ and not ‘money’, does not support their cause.
5. If ‘Money’ is not covered as ‘Goods’ in the definition of ‘Goods’ under CGST Act, then it is not ‘goods’ for everyone.

Decision of the Case

1. The authority was deciding the issue whether the money being transported by the Appellant in the cash carry vans is “goods” or otherwise for the purposes of availing Input Tax Credit under the GST law.
2. The Appellate Authority, finally ruled that Input Tax Credit is not available to CMS Info Systems Limited on purchase of motor vehicles i.e. cash carry vans, which are purchased and used for cash management business and supplied post usage as scrap.
3. The Appellate Authority for Advance Ruling (AAAR), Maharashtra ruled that the input tax credit cannot be allowed on the purchase of motor vehicles used for cash management business and supplied post usage as scrap.

ITC on Motor Vehicles

Fact of the Case

1. In the present case the Appellant is the Purchaser of Motor Vehicles i.e cash carry vans & supplied post usage as scrape.
2. The issue here is whether the money being transported by the Appellant in the cash carry vans is “goods” or otherwise for the purposes of availing Input Tax Credit under the GST law.
3. Appellant’s point of view what is transported is “goods” and not “money”. But it is not supposed by the definition of “Goods” under CGST Act.
4. Hence, Input Tax Credit is not available on purchase of motor vehicles i.e. cash carry vans,

which are purchased and used for cash management business.

Decision of the Case

1. Section 18, input tax credit shall not be available in respect of the following, namely:-

(a) motor vehicles and other conveyance except when they are used-

(i) for making the following taxable supplies, namely:-

- (A) further supply of such vehicles or conveyances; or
- (B) Transportation of passenger; or
- (C) Imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods.

2. So, no Input Tax Credit is available.

HC: Seeks clarification from CBIC regarding GST applicability on goods supplied through duty-free shops

Hotel Ashoka vs. Madhya Pradesh H.C.

Fact of the Case

1. Duty free shopkeeper is the petitioner here.
2. Petitioner's contention that, duty free shops are located beyond customs frontier of India, hence, any transaction therefrom can be said to have taken place outside India and petitioner is not liable to pay any CGST, SGST and IGST.
3. Accordingly, petitioner requested that some interim direction be issued to CBIC through member GST regarding eligibility of refund of accumulated credit of CGST, SGST and IGST paid by the duty free shops on goods and services supplied by Indian supplier.

Decision of the Case

High Court directs Revenue "to seek instructions from Board for issuance of clarification and response as the matter is already settled by the Apex Court in the case of Hotel Ashoka & Madhya Pradesh H.C.

Activity of Renting of Phars / Tin Sheds / Shops for Marketing / Trading of Flowers attract Service Tax: CESTAT

Delhi Agricultural Marketing Board vs. (CESTAT), Delhi bench

Fact of the Case

1. Delhi Agriculture Marketing Board is the assessee in the instant case.
2. It has purchased land at Gazipur area for the development of flower marketing committee. The appellant have given the sheds/shops/phars on rent to various traders.
3. The Tribunal noted that the activities which are covered under Section 66D (a) are of the nature which are purely in the public interest and undertaken as a mandatory and statutory function.
4. The Tribunal found that the appellant is a body which is not a local authority and therefore the exemption under Section 66D (a) is not available to them.

Decision of the Case

1. The provisions of Section 66D (d) (iv) of the Finance Act, 1994 only provides when the agriculture land is used for agriculture or for its producers but not for shops which are used for carrying out business or commerce.
2. In the present situation the purchased land is used not for agriculture purpose but it has been used as immovable property by giving various traders as rental basis.
3. So, the provisions of section 66D is not applicable here.
4. The Delhi Bench of the Customs, Excise and Service Tax Appellate Tribunal(CESTAT) passed the order that the activity of renting of phars/tin sheds/shops for marketing/trading of flowers is taxable under the head of "Renting of Immovable Property."

DIRECT TAX

Assessment Order framed within 16 Days of Disposal of Objections is Bad in Law: ITAT

Smt. Kamlesh Goel vs. ITAT Delhi

Case No. - ITA No. 5730/DEL/2017

Date - 30.08.2018

Fact of the Case

1. Assessee engaged in the business of clothing. The return filed by the assessee for the relevant year was rejected by the Assessing Officer and was processed under Section 143(1) of the Income Tax Act, 1961.
2. Thereafter, the case of the assessee was reopened under section 147 of the Act and a notice for the same was provided to the assessee on 04.07.2016.
3. On 13.07.2016, the assessee filed objections to the reasons so recorded.
4. The objections raised by the assessee were disposed off by the Assessing Officer on 13.12.2016 and the assessment under section 143(3) of the Act was passed on 30.12.2016.
5. Before the appellate authorities, the assessee contended that the assessment passed within 16 days of disposal of objections is illegal.

Decision of the Case

1. The Tribunal noticed the decision of the Co-ordinate bench in the case of Meta-plast Engineering P. Ltd.
 2. The Tribunal also referred the decision of the Bombay High Court in Bharat Jayantilal Patel and held that "Respectfully following the same, we hold that the assessment order dated 30.12.2016 framed u/s 147 r.w.s 143(3) of the Act is bad in law and deserves to be quashed.
 3. The Income Tax Appellate Tribunal (ITAT) has recently held that the Assessment order passed just 16 days after the disposal of objections filed by the assessee is bad in law.
-

Rental Income can be treated as 'Business Income' even if Principal Object of Company is not Letting out of Properties: Madras HC

M/s. Sakthi Sugers Ltd. vs. Principal Commissioner of Income Tax

Case No. -Appeal No.386 of 2018

Date - 02.08.2018

Fact of the Case

1. An assessee claims the rental income to be treated as Business Income.
2. The Tribunal passed the order in favour of the assessee and held that such income constitutes business income and not house property income.
3. Before the High Court, the Revenue pleaded that the ITAT was not right in allowing the rental income of the assessee as "business income" instead of "Income from house property" when the principal object of the assessee company is not letting out of properties.
4. According to the Revenue, the order of the Tribunal allowing the rental income of the assessee as "business income" ignored the Apex Court judgment in the case of Keyaram Hotels.

Decision of the Case

The Madras High Court has held that the rental income received by the company is assessable as income from 'Profits and Gains from Business and Profession' even if the principal object of the company is not letting out of properties.

No Disallowance of Expenditure merely on the basis of Surmises and Conjectures of AO: ITAT (Cuttack Bench)

Panda Fuels, Manikeswari High School Chowk vs. ITO

Case No. - ITA No. 07/CTK/2018

Date - 27/08/ 2018

Fact of the Case

1. An Assessee did not maintain any individual ledger account of his employees for their salary payment.
2. So the Assessing Officer made ad-hoc disallowance of 20% out of salary paid to employees by the firm by finding that no individual ledger account maintained and each employee have been paid by cash.
3. In the view of the Assessing Officer since there was no little evidence produced by the Assessee in support under salary could not be accepted.
4. On the second appeal, the assessee contended that without bringing any material on record, no disallowance can be made out of the genuine business expenditure of the assessee incurred wholly and exclusively for the purposes of the business of the assessee.

Decision of the Case

1. The Tribunal noted that the disallowance made by the Assessing Officer is only on the ground that in

his opinion, the expenses claimed are not corroborated with justifiable facts.

2. In their considered view, merely on the basis of surmises and conjectures of the Assessing Officer, no disallowance of expenditure made by him out of the genuine business expenditure of the assessee can be sustained in law without any material being brought on record to show that either the expenses are not genuine or they are inflated.
3. The Tribunal set aside the orders of lower authorities and vacate the disallowance of Rs. 2, 55,080 and allow this ground of appeal of the assessee.

Loss on Investment in Joint Venture Company can be Written Off: ITAT allows Deduction

Sahara Global Vision Pvt. Ltd vs. The A.C.I.T, New Delhi

Case No.-ITA No. 2514/DEL/2014

Date - 30.08.2018

Fact of the Case

1. Assessee, as part of its main objects, entered into a Joint Venture by way of participating in a company in USA for distribution of petroleum and chemical products after obtaining approval from RBI.
2. The Company was liquidated. The assessee has written off the investment and claimed deduction of the same while filing income tax returns for the year under consideration.
3. The Assessing Officer said that since the assessee has invested in shares of the joint venture company, the amount written off is nothing but a capital loss and cannot be allowed as a deduction. The Assessing Officer disallowed Rs. 2, 92, 31,861/-.
4. The assessee contended before the Tribunal that the investment in the joint venture company was a business investment for carrying on the business and it was not an investment.

Decision of the Case

1. The bench noted that the assessee had invested 3 million US Dollars and on liquidation of the joint venture company, a sum of Rs. 24, 82,746.3 US Dollars could only be recovered and the balance amount has been written off in the accounts of the year under consideration.
2. The Tribunal held that "the claim of the assessee that the write off represents loss occurred against business investment cannot be denied.
1. The Income Tax Appellate Tribunal (ITAT), Delhi bench, last day allowed deduction in respect of loss incurred on investment in Joint Venture Company which was written off by the assessee.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Date	Return Type
20 th September, 2018	GSTR 3B for August, 2018
20 th September, 2018	GSTR 5, for the month of August, 2018 (for Non Resident taxable person)
20 th September, 2018	GSTR 5A, for the month of August, 2018 (for OIDAR)
30 th September, 2018	GSTR-6 (by ISD) for July 2017 to August 2018
5 th October, 2018	GSTR 3B for the month of July (Only for registered persons of Kerala)
10 th October, 2018	GSTR 3B for the month of August (Only for registered persons of Kerala)
5 th October, 2018	GSTR 1 for July, 2018 (For turnover of more than Rs. 1.5 crore/For turnover of less than 1.5 crore but opted Monthly) (Only for registered persons of Kerala)
10 th October, 2018	GSTR 1 for August, 2018 (For turnover of more than Rs. 1.5 crore/For turnover of less than 1.5 crore but opted Monthly) (Only for registered persons of Kerala)
31 st October, 2018	GSTR 1 - In case of taxpayers with turnover above Rs 1.5 crores in previous FY or Current FY: Regular taxpayers : for Months from July 2017 to September 2018
31 st October, 2018	GSTR 1 – In case of taxpayers with turnover upto Rs 1.5 crores in previous FY or Current FY: Regular taxpayers : for Quarters from July 2017 to September 2018
15 th November, 2018	GSTR 1 for July - Sept, 2018 (For turnover of less than 1.5 crore) (Only for registered persons of Kerala)
31 st December, 2018	Extension of Due date for GSTR-3B only for newly migrated taxpayers for months July 2017 to Nov 2018.
31 st December, 2018	Extension of Due date for GSTR-1 in case of taxpayers with turnover above Rs 1.5 crores in previous FY or Current FY: Newly migrated taxpayers: for months from July 2017 to November 2018.
31 st December, 2018	GSTR 1 – In case of taxpayers with turnover upto Rs 1.5 crores in previous FY or Current FY: Newly migrated taxpayers: for Quarters from July 2017 to November 2018
31 st March, 2019	Due date of TRAN-1 is extended for certain taxpayers who could not complete filing due to tech glitch
31 st April, 2019	Due date of TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch.

DIRECT TAX CALENDAR - SEPTEMBER, 2018

07.09.2018

- Due date for deposit of Tax deducted/collected for the month of August, 2018. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

14.09.2018

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

15.09.2018

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of August, 2018 has been paid without the production of a challan
- Second installment of advance tax for the assessment year 2019-20

30.09.2018

- Audit report under section 44AB for the assessment year 2018-19 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on September 30, 2018).
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA or under section 194-IB in the month of August, 2018
- Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is September 30, 2018)
- Annual return of income for the assessment year 2018-19 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner of a firm whose accounts are required to be audited).
- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on September 30, 2018)
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on September 30, 2018)
- Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company does not have any international/specified domestic transaction]
- Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2017-18 and of foreign tax deducted or paid on such income in Form no. 67. (if due date of submission of return of income is September 30, 2018).
- Due date of intimation under section 286(1) by a resident constituent entity of an international group whose parent is non-resident.

DIRECT TAX CALENDAR - OCTOBER, 2018

07.10.2018

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

15.10.2018

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of September, 2018 has been paid without the production of a challan.
- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of August, 2018.
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September, 2018.
- Quarterly statement of TCS deposited for the quarter ending September 30, 2018.
- Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2018.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of September, 2018.

30.10.2018

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of September, 2018
- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2018

31.10.2018

- Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2017-18.
- Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2017-18.
- Quarterly statement of TDS deposited for the quarter ending September 30, 2018
- Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2018
- Copies of declaration received in Form No. 60 during April 1, 2018 to September 30, 2018 to the concerned Director/Joint Director

WEBINAR CALENDAR 16th To 30th SEPTEMBER, 2018

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	17.09.2018 (Monday)	4:00 - 5:00 PM	Tax Audit Under Income Tax Act - Recent Amendments & Issues	CMA Niranjan Swain
2.	26.09.2018 (Thursday)	4:00 - 5:00 PM	Analysis of GST Audit Proforma & Rules with Inspection, Search & Seizure	CMA S K Bhat

Please Note: One CEP hour awarded for attending each webinar

GST CERTIFICATE COURSE - 3rd BATCH

Course Eligibility

- Qualified Cost & Management Accountants
- Other Professionals (CS, CA, MBA, M.Com, Engineers, Lawyers, etc)
- Executives from Industries
- GST Practitioners
- Students who are either CMA qualified or CMA Final pursuing

Course Duration, Fees, Examination and other Modalities

Details	Classroom Learning/Offline Mode	Online Classes
Course Duration	72 hours (to be conducted on Quarterly basis)	72 Hours
Classes	Class room sessions on Saturday - 2 Hrs & Sunday - 4 Hrs	Internet Connection is required and classes can be attended from your place.
Assessment:	Online mode (Assessment to be conducted in the last week of the following month of every quarter)	Online mode (Assessment to be conducted in the last week of the following month of every quarter)
Course Fee	Rs. 10,000 + GST *	Rs. 10,000 + GST *
Examination Fee	Rs. 1,000 + GST	Rs. 1,000 + GST
Award of Certificate	Candidates with at least 70% attendance in the classes and also passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute	Candidates passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute
Date of Registration	From September 2018	From September 2018
Study Materials & Model Question Bank to be provided to all participants Experienced faculties from Industry and practice		

Places

Locations	Classroom Learning	Online Classes
North	✓ Delhi ✓ Noida	From anywhere in India
South	✓ Chennai ✓ Mysore ✓ Bangalore ✓ Hyderabad ✓ Coimbatore	From anywhere in India
East	✓ Kolkata ✓ Ranchi	From anywhere in India
West	✓ Mumbai ✓ Pune ✓ Ahmedabad	From anywhere in India

* Other Criterion

- Minimum batch size: 20; Maximum 40; - Per Location for Classroom Session
- Classroom Batches will be started subject to fulfilling the minimum batch size
- **20% discount for the Members and Students of the Institute**
- Special Discount for Corporates:-
 - If Number of employees registered for the course are between 5 to 10 - 15%
 - If Number of employees registered for the course are more than 10 - 20%

Course Contents

1. Constitutional Background of GST, Concepts of GST & Definitions in GST.
2. Taxable event, Time of Supply and Place of Supply, Composite & mixed supply, non taxable supply, exempt supply, works contract, exempted supply.
3. Classification, HSN,SAC
4. Valuation under GST, Valuation rule
5. Input Tax Credit
6. Basic Procedures- Registration, Invoice, Bill of supply, E way Bills etc.
7. Records and Returns
8. Zero Rated Supplies , Imports and Exports
9. Payment and Refunds
10. Assessment
11. Audit
12. Demands
13. Adjudication and appeal
14. Penalties and Prosecutions
15. Advance Ruling
16. Job Work
17. Anti profiteering
18. Miscellaneous Provisions
19. Case studies on specific Chapters involving real life scenarios

Online Assessment for the 2nd Batch: October, 2018

Mock Test Module: Mock Test paper will be uploaded in the website for 2nd Batch within September, 2018

Special Crash Course for the Corporates - For details contact: trd2@icmai.in

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

1. Publication and Circulation of E-bulletin for the awareness of stakeholders, members, traders, Chambers of Commerce, Universities.
2. Publication of Handbooks on Taxation related topics for knowledge updation of stakeholders.
3. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
4. 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.
5. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
6. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
7. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country
8. Extending 3rd Batch of Certificate Course on GST after successfully carrying the 2 Batches of Certificate Course on GST.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Disclaimer:

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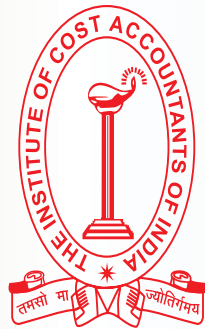
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