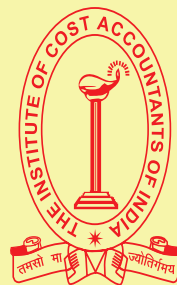


NOVEMBER, 2018

# TAX Bulletin



VOLUME - 27



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

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

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Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

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“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

May the warmth and splendour of the gleaming diyas add a special grandeur to your life  
May the aura of the Lord add success and skim out the strife  
May the sound of mantras resound in your ears  
May they give you peace and wash away all the fears

*Wishing you a "Happy Diwali" !!*

In this festive month the Tax Research Department has achieved success in many of its endeavours, some of them being:

- ❖ Publishing the Summary of GST Notification from July 2017 - June 2018.
- ❖ Publishing the Anniversary Edition and the 26<sup>th</sup> Edition of the Tax Bulletin.
- ❖ Guidance Note on GST Annual Return has also been published
- ❖ Four Seminars have been conducted –
  - In Bharuch with the theme "GST - Place of Supply & Valuation, Annual Return & GST Audit" on the 6th of October
  - In Bangalore with the theme "GST Return and GST Audit" on the 12th of October
  - In Ahmedabad, half-day program on GST themed – 'E-way Bill and GST Audit' on 27th October, 2018
  - In Bhubaneswar themed - "Income Tax Computation and Disclosure Standards (ICDS)" on 28th October, 2018
- ❖ 3 Webinars have also been conducted for the members and stakeholders on the topics - GST Amendment Bill, 2018, GST - Annual Return & Reconciliation of ITC, Audit under GST.

I would like to congratulate all the members of TRD on their success. I am thankful to all the knowledge contributors and Resource persons for all their support and mentoring.

Thank you.

**CMA Niranjana Mishra**  
Chairman - Taxation Committee  
2<sup>nd</sup> November, 2018

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# CONTENTS

ARTICLES		
<b>INDIRECT TAX</b>		
<b>01</b>	<b>DEEPAWALI – “A MIXED SUPPLY”</b>	
	CMA Anil Sharma	Page - 1
<b>02</b>	<b>RECENT ORDERS PASSED BY NATIONAL ANTI-PROFITEERING AUTHORITY (NAA) – AN ANALYSIS</b>	
	CMA Susanta Kumar Saha	Page - 4
<b>DIRECT TAX</b>		
<b>03</b>	<b>ESOP – INCOME TAX PERSPECTIVE</b>	
	Prabhakar K S	Page - 15
<b>SUMMARY OF NOTIFICATIONS</b>		
	Team TRD	Page - 19
<b>TAX UPDATES, NOTIFICATIONS AND CIRCULARS</b>		
	Indirect Tax	Page - 33
	Direct Tax	Page - 39
<b>PRESS RELEASE</b>		
	Indirect Tax	Page - 42
	Direct Tax	Page - 43
<b>JUDGEMENTS</b>		
	Indirect Tax	Page - 45
	Direct Tax	Page - 46
<b>TAX COMPLIANCE CALENDAR AT A GLANCE</b>		
	Indirect Tax	Page - 48
	Direct Tax	Page - 48

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](mailto:trd@icmai.in) / [research.ad1@icmai.in](mailto:research.ad1@icmai.in)



## DEEPAWALI – “A MIXED SUPPLY”

**CMA Anil Sharma**  
Practicing Cost Accountant

Goods and Service tax (GST) was introduced in the country w.e.f 01.07.2017. GST brought many new concepts and definitions in Indirect Taxation and has changed over all scenarios of Indirect taxes. Some of the new concepts or definitions are as under:

- Aggregate turnover
- Capital goods
- Composite supply
- Council- GST council
- Electronic cash ledger
- Electronic credit ledger
- Goods and Services Tax (Compensation to States) Act
- Integrated Goods and Services Tax Act
- Mixed supply
- Proper officer
- Usual place of residence
- Works contract and many more

Each one has deep impact on businesses and need critical analysis to implement. Any wrong interpretation of the provisions of law may lead to heavy fines, penalties and litigation.

‘Mixed Supply’ and ‘Composite Supplies’ created lot of confusion among stake holders and people could not make out clear cut demarcation between these two clauses of the GST Act.

Mixed Supply is defined under Section 2 (74) of CGST Act, 2017 and it says “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a “composite supply”.

A clarification is also given in the law which is as under:

A supply of a package consisting of **canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices** when supplied for a single price is a **mixed supply**. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Whereas ‘Composite supply’ as per Section 2(30) of CGST Act, “composite supply” means a supply made by a taxable person to a recipient consisting of two or more

taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

*Illustration:* Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

On the occasion of Deepawali and other festivals, we buy gifts for our friends and relatives or staff/employees where in we give them mixture of these items. It is very common on Deepawali that we buy a baskets consisting of items like chocolates, biscuits, juices and dry fruits. All these items otherwise can also be purchased/sold and has no relevance of buying in a single package. But on Deepawali we do so. As per provisions of GST Act, it comes under the definition of ‘mixed supply’. ‘Buy one get one’ offers are best example of mixed supplies.

Similarly, we buy or sell items in Cookware/Kitchenware range, crockery, glass items, show pieces etc. in single package or for single price.

We also buy or sell Candles, Earthen Pots, Earthen divine, Earthen decorative pieces etc. in single package or for single price.

In Electronics items we buy or sell Television, Home Theater, Refrigerator, Washing machine in one of the schemes where in sound systems, oven, iron and digital camera are supplied either as free gift or for single price. This is also a case of mixed supply because these items can otherwise be sold or purchased. But on the occasion of festivals these are being sold in single price or package which constitutes a ‘mixed supply’ under GST.

In case of Mobile phones segments, we buy or sell Mobile phones, ear phones, head phones, battery backup etc. in single price which also constitute ‘mixed supply’ under GST.

So there are various reasons when we buy or sell such items in combination of two or more. It is important to know their taxes and status under GST, so that whenever we do such transactions we should pay actual tax and be tax compliant.



'Mixed Supply' is taxable supply under GST Act. As per section 8(b) of CGST Act, 2017, a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the **highest rate of tax**.

**Means if you are buying two or more items in single price or package then the items which attracts highest rate of tax, that rate of tax shall be charged for all the items.**

Let us understand it with examples:

In above said examples, let us take an example of a basket consisting of items like chocolates, biscuits, juices, soft drinks and dry fruits that we buy on the occasion of Deepawali for one of our friend.

In said basket the rate of GST as applicable on individual items is as under:

Items	Qty	Amount	GST Rate
Chocolates	100 gms	200/-	18%
Biscuits	300 gms	100/-	18%
Juices	250 ml	50/-	12%
Soft drinks	200 ml	15/-	28%
Dry fruits	300 gms	300/-	5%
<b>Total</b>		<b>665/-</b>	

(\* Rates are subject to latest notifications)

In above said example highest rate of GST is applicable on Soft drinks though has minimum monetary value in total pack of Rs. 665/-. So as per the provisions of GST Act, the whole basket shall be charged with GST @ 28%.

Similarly, in case we buy or sell Candles with Earthen Pots, Divine etc. in one pack for single price, GST on Candle is @ 12% shall be charged for whole supply though Earthen Pots are either exempted or subject to GST at nil rate of tax.

Items	Qty	Amount	GST Rate
Candles	01 dozen	36/-	12%
Earthen Pots/Clay Lamps	01 dozen	14/-	0%
Earthen Divine	01 no	80/-	0%
<b>Total</b>		<b>130/-</b>	

In this mixed supply, tax rate of Candles that is 12% shall be applicable on total value of Rs. 130/-.

While buying or selling the following items as 'mixed supply' one must consider their tax rates and should avoid the said transaction as 'mixed supply' otherwise it shall be charged at higher rate of tax.

There are some more such items, as listed below, which can be supplied under mixed supply having different rates of taxes under GST.

Television	18%
Refrigerator	18%
Washing machine	18%
Dish Washer	28%
Music systems	18%
Home theater	18%
Oven	18%
Iron	18%
Digital camera	28%

Similarly, in case of **Mobile phones segments:**

Mobile phone for cellular network	12% (Chapter Heading 8517)
Telephone sets	18% (Chapter Heading 8517)
Ear Phones/Head Phones	18% (Chapter Heading 8518)

### **Kitchenware Segment**

Tableware and Kitchenware of wood	12% (Chapter Heading 4419)
Tableware, Kitchenware others	18% (Chapter Heading 3924)
Other articles of wood	12% (Chapter Heading 4421)
Wood paving blocks etc.	18% (Chapter Heading 4421)

In our day to day business transactions also, we may enter into such transactions where we tries to negotiate the rates for better margins but at the same time failed to understand their tax structure. 'Buy one get one' offers are cases of 'mixed supply' and be enter into carefully. Meaning there by, we may land into higher tax rate structure and pay more taxes than the savings that we done through such buying or bulk buying/mixed buying.

As I narrated in the beginning that GST has brought many new concepts, so through this article, I have tried to make stakeholder to understand the concept of 'Mixed Supply' and enter the transactions accordingly otherwise you may face serious consequences at later stage.

**Be aware of "Buy one get one" offers!**



## RECENT ORDERS PASSED BY NATIONAL ANTI-PROFITEERING AUTHORITY (NAA) – AN ANALYSIS

**CMA Susanta Kumar Saha**  
GST Consultant

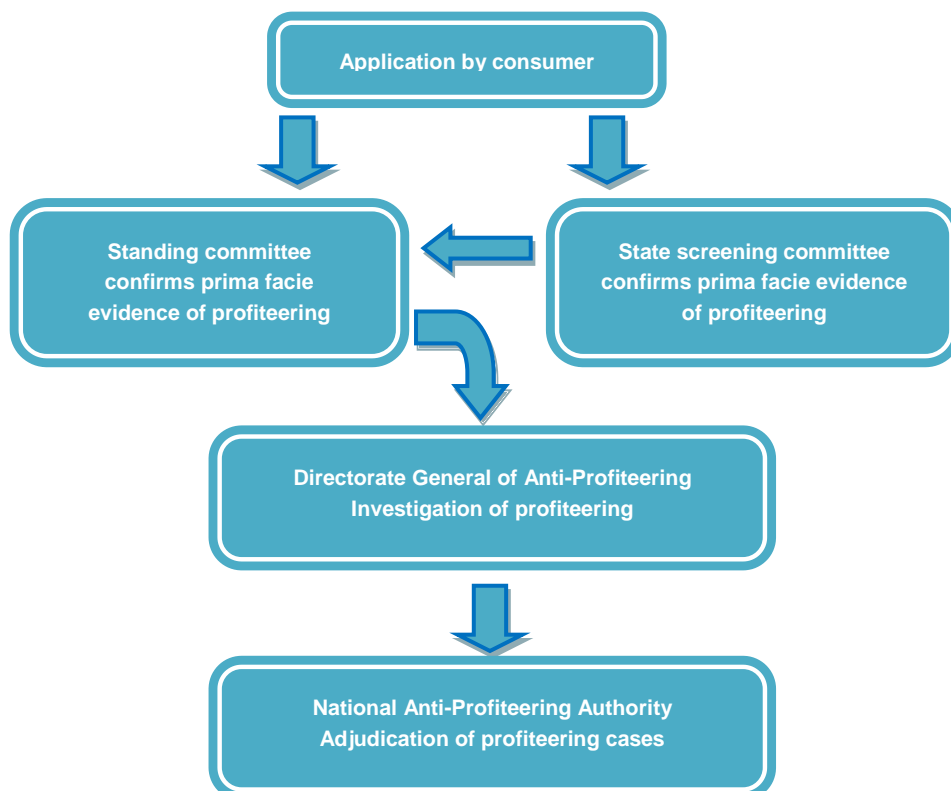
**Section 171(1)** of the CGST Act, 2017 stipulates that “**any reduction** in the **rate of tax** on **any supply** of goods or services or the **benefit of input tax credit** shall be **passed on** to the **recipient** by way of **commensurate** reduction in prices.”

**Section 171(2)** of the CGST Act, 2017 stipulates that “the **Central Government** may, on recommendations of the Council, **by notification, constitute** an **Authority**, or **empower** an existing Authority constituted under any law for the time being in force, **to examine** whether **input tax credits availed** by any registered person or **the reduction in the tax rate** have **actually resulted** in a **commensurate** reduction in the **price** of the goods or services or both **supplied** by him.”

**Section 171(3)** of the CGST Act, 2017 stipulates that “the **Authority** referred to in sub-section (2) shall **exercise** such **powers** and **discharge** such **functions** as may be **prescribed**.”

Important procedural details have been specified vide **rule 122 to rule 137** of the CGST Rules, 2017, inter alia includes, constitution of the Authority, constitution of the Standing Committee and Screening Committees, power to determine the methodology and procedure, examination of application by the Standing Committee and the Screening Committee, initiation and conduct of proceedings, confidentiality of information, cooperation with other agencies or statutory authorities, power to summon persons to give evidence and procedure documents, order of the Authority, compliance by the registered person, monitoring of the order etc.

The following flow chart will help us to understand the organisational structure:



At the time of penning down this article, so far nine orders have been published as passed by the Authority in their website ([www.naa.gov.in](http://www.naa.gov.in)). All the orders have been reviewed and are summarised below with key take away points from each order:

Sl. No	Name of the parties	Citation	Date of the Judgement																																	
1	Sh. Dinesh Mohan Bhardwaj Proprietor, M/S U.P. Sales ( <b>Applicant</b> ) Vs Services Versus M/S Vrandavaneshwree ( <b>Respondent</b> )	2018 (4) Tmi 1377 - The National Anti-Profiteering Authority	27-03-2018																																	
<b>Summary of Case No. 1/2018:</b>																																				
a. <b>Facts:</b>																																				
i. Applicant booked a car (Orchid White colour, model no. WR-V 1.2 VX MT (i-VTEC)) from showroom of the respondent, being a dealer of M/s. Honda Car Ltd, vide Sale Contract dated 28.04.2017 when the ex-show room price was ₹ 9,13,300/-.																																				
ii. Applicant requested for change in colour to Alabaster (base colour), had taken the delivery of the car on 11.07.2017 whose pre-GST show room price was ₹9,09,300/- , at ₹8,98,750/-.																																				
iii. Applicant had alleged that combined effect of rate of tax was 51% in pre-GST regime while the total incidence of tax in GST regime is 29%, i.e, there had been a reduction of rate of tax.																																				
iv. Thus applicant filed an application dated 01.11.2017 before the Standing Committee alleging that he was not given benefit of reduced rate of Tax (GST) which amounted to profiteering.																																				
v. Standing Committee considered the matter in it's meeting held on 07.11.2017 and referred to Director General of Safeguards (DGSG) for detailed investigation under rule 129(1) of the CGST Rules, 2017.																																				
b. <b>Issues:</b>																																				
i. Whether the rate of tax on the car had been reduced post-GST and if so, whether there was substantial reduction in the rate of tax as has been contended by the Applicant, and whether the benefit of reduction in rate of tax had been passed on to the applicant,																																				
ii. Whether any input tax credit (ITC) benefit was too be passed on to the Applicant by the Respondent.																																				
c. <b>Decision:</b>																																				
i. With regard to point no (i), from the detailed analysis of DGSG in it's report dated 23.02.2018, it is found that pre-GST rate of tax 51% was reduced to 29% in GST regime is factually in correct, instead there was a reduction of about 2%, i.e, from 31.254% to 29%. From the detailed calculation submitted by DGSG, it is found that the <b>benefit in reduction of tax rate</b> was passed on to the Applicant by way of <b>reduction</b> in the price of base colour by an amount of ₹10,550/-.																																				
ii. With regard to point no. (ii), as the <b>benefit of ₹10,550/-</b> on account of <b>reduction of tax</b> by about 2%, viz, from 31.254% (pre-GST) to 29% (in GST), has been <b>passed on</b> to the Applicant, <b>no additional benefit</b> on account of input tax credit (ITC) is <b>required</b> to be <b>paid</b> by the respondent.																																				
iii. Thus the <b>contention</b> of the <b>Applicant</b> made in his letter dated 15.03.2018 is <b>not valid</b> and <b>deserves</b> to be <b>rejected</b> .																																				
iv. Authority found that the <b>respondent</b> has <b>not contravened</b> the provisions of <b>section 171</b> of the CGST Act, 2017 and accordingly <b>no merit</b> was found in the <b>application</b> and <b>dismissed</b> the same.																																				
d. <b>Ratio:</b>																																				
i. Total incidence of tax in pre-GST and during GST regime is as follows:																																				
<table border="1"> <thead> <tr> <th>Duty/Tax/Cess</th> <th>Pre-GST Rate (%)</th> <th>During GST Rate (%)</th> </tr> </thead> <tbody> <tr> <td>Excise Duty</td> <td>12.5</td> <td>-</td> </tr> <tr> <td>National Calamity Contingent Duty (NCCD)</td> <td>1</td> <td>-</td> </tr> <tr> <td>Auto Cess</td> <td>0.125</td> <td>-</td> </tr> <tr> <td>Infra Cess</td> <td>1</td> <td>--</td> </tr> <tr> <td>Total (A)</td> <td>14.625</td> <td>-</td> </tr> <tr> <td>CST (B=0.05% on A)</td> <td>0.007</td> <td>-</td> </tr> <tr> <td>Total (C=A+B)</td> <td>14.632</td> <td>-</td> </tr> <tr> <td>VAT (D) = (14.5% on C)</td> <td>16.622</td> <td>-</td> </tr> <tr> <td>GST + Cess</td> <td>-</td> <td>29</td> </tr> <tr> <td><b>Total tax rate (C + D)</b></td> <td><b>31.254</b></td> <td><b>29</b></td> </tr> </tbody> </table>				Duty/Tax/Cess	Pre-GST Rate (%)	During GST Rate (%)	Excise Duty	12.5	-	National Calamity Contingent Duty (NCCD)	1	-	Auto Cess	0.125	-	Infra Cess	1	--	Total (A)	14.625	-	CST (B=0.05% on A)	0.007	-	Total (C=A+B)	14.632	-	VAT (D) = (14.5% on C)	16.622	-	GST + Cess	-	29	<b>Total tax rate (C + D)</b>	<b>31.254</b>	<b>29</b>
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The phrase " <b>post-GST Rate (%)</b> " may not be appropriate, as we are currently in GST regime. Reduction in rate of tax is marginal, at around 2.254%, as calculated above and not 51%, as alleged by the Applicant.																																				
ii. Comparison of ex-show room price of the car purchased by the Applicant during pre-GST and in GST regime is as follows:																																				
<table border="1"> <thead> <tr> <th>Particulars</th> <th>Factor</th> <th>Pre-GST (in ₹)</th> <th>In GST regime (₹)</th> </tr> </thead> <tbody> <tr> <td>Basic price of Honda Car Model : WR-V 1.2 VX MT</td> <td><b>A</b></td> <td>6,59,175</td> <td>6,58,718</td> </tr> <tr> <td>ED plus NCCD plus Auto Cess plus Infra Cess</td> <td><b>B</b></td> <td>96,405</td> <td></td> </tr> <tr> <td>Ex-factory Price</td> <td><b>C</b></td> <td>7,55,579</td> <td>6,58,718</td> </tr> </tbody> </table>				Particulars	Factor	Pre-GST (in ₹)	In GST regime (₹)	Basic price of Honda Car Model : WR-V 1.2 VX MT	<b>A</b>	6,59,175	6,58,718	ED plus NCCD plus Auto Cess plus Infra Cess	<b>B</b>	96,405		Ex-factory Price	<b>C</b>	7,55,579	6,58,718																	
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CST @ 0.05%	<b>D=C*.05%</b>	378	
Freight and Transit Insurance	<b>E</b>	4573	4,368
Dealer Landed Price	<b>F</b>	7,60,530	6,63,086
Dealer Margin	<b>G</b>	33,619	33,619
Dealer Price	<b>H</b>	7,94,149	6,96,705
VAT @14.5%	<b>I</b>	1,15,152	
GST + Cess @29%	<b>J</b>		2,02,044
Ex-showroom price of Alabaster Silver colour car	<b>K=H+M/N</b>	9,09,300	8,98,750
Additional cost of Orchid White colour car	<b>L</b>	4,000	
Ex-showroom price of Orchid white colour car	<b>M</b>	9,13,300	
Price charged from the Applicant	<b>N</b>		8,98,750
Benefit passed on to the applicant (excluding ₹4,000/- reduced for change in colour)	<b>O</b>		<b>10,550</b>

Thus a reduction of ₹ 10,550/- has been passed on to the Applicant on account of reduction in rate of tax (GST).

**Points to note from the Order:**

- Dealer's margin tantamount to profit of the dealer and the reduction in dealer's margin is reduction in profit margin of the dealer and cannot be equated with commensurate reduction in price due to reduction in rate of tax. (Para 7)
- In the order of the Authority, the word "commensurate" hasn't prefixed before the word "reduction". Relevant portion of the extract is reproduced as "Thus, the **benefit of reduction in the tax rate was passed on to the applicant by way of reduction in the price of the car of base colour by an amount of ₹ 10,550/-**". (Para 15).
- Issue no (ii) wasn't raised by the Applicant in its initial application dated 01.11.2017, but was mentioned in his reply dated 15.03.2018, in response to DGSG's investigation report dated 24.02.2018, which the Authority has accepted for consideration. Was it simply an **omission** or in the **absence** of a **proper mechanism to identify the quantum of benefit of reduction**, the word "**commensurate**" was not mentioned?

Sl. No	Name of the parties	Citation	Date of the Judgement
2	Kumar Gandharv (Applicant) Vs KRBL Ltd (Respondent).	2018 (5) Tmi 760 - National Anti-Profiteering Authority	04.05.2018

**Summary of Case No. 3/2018:**

**a. Facts**

- KRBL Ltd., being the manufacturer of "India Gate Basmati Rice", sold 10 kg packet of "India Gate Basmati Rice" (Mini Mogra), herein after stated as product, at a MRP of ₹ 540/- and ₹ 585/- in the month of August, 2017 and October, 2017, respectively.
- The product wasn't subjected to tax in pre-GST regime, was brought under the net of tax in GST regime w.e.f 22.09.2017 when tax (GST) @5% was levied.
- Respondent was thus became eligible to avail of input tax credit (ITC) w.e.f the same date.
- Applicant vide his application dated 27.11.2017, sent through e-mail to the Standing Committee alleged that the benefit of reduction in the rate of tax on the product has not been passed on to the consumers as its Maximum Retail Price (MRP) had been increased.
- Standing Committee examined the application and forwarded to the Director General Safeguards (DGSG) for detailed investigation on 18.12.2017.

**b. Issue**

- Whether on becoming eligible to avail of the benefit of input tax credit (ITC) on "India Gate Basmati Rice", benefit of input tax credit (ITC) has been passed on to the customers in view of increase in MRP of 10 kg packet of "India Gate Basmati Rice"?

**c. Decision**

- No **net benefit of ITC is available** to the respondent which could be **passed on** to the customers. Accordingly the Authority **didn't find any substance** in the application filed by the Applicant as there is **no violation** of the provisions of section 171 of the CGST Act, 2017 and hence the same is **dismissed**.

**d. Ratio**

- "India Gate Basmati Rice", on becoming taxable product, benefit of input tax credit was made available to the Respondent w.e.f 22.09.2017.
- It was further revealed from the data submitted for three months, i.e, September, October and November, 2017 that input tax credit (ITC) available as a percentage of total value of taxable supplies during these three months varied between 2.69% to 3%, whereas the GST rate on outward taxable supply was 5%.

- iii. Thus ITC available was insufficient to discharge GST liability, and the balance amount had been paid in cash.
- iv. Cost of price of paddy, which amounts to 75% cost of production, has increased by more than 30% in the FY 2017 as compared to the FY 2016.
- v. The Respondent submitted that because of the stiff competition in the market, they couldn't pass on the increased cost entirely to the consumer, instead increased Maximum Retail Price 'MRP' by 8% only from ₹ 540/- to ₹ 585/-.
- vi. Therefore, the Authority didn't find any reason to treat the price fixed by the respondent as a violation of section 171 of the CGST Act 2017, i.e, Anti-profiteering clause.

**Points to note from the Order:**

- i. Concept of '**net benefit of ITC**' or '**net ITC**' was brought in to **measure** whether the increase in MRP was in contravention of Anti-profiteering clause.
- ii. The phrase '**net ITC**' has **not been used** in the CGST Act, but has been used in CGST Rules, 2017 under '**Refund Chapter**'. The phrase '**Net ITC available**' has been used in '**FORM GSTR-3B**' which equals to ITC available as reduced by ITC reversed.
- iii. Adopting the analogy applied in the case, and assuming a scenario where the **arithmetic ratio of 'available input tax credit (ITC) to outward taxable supply' is greater than 5**, i.e, the rate of tax (GST) applicable for outward tax liability in this case, **would it have been considered as commensurate reduction had the excess amount of ITC over and above 5% been passed on to the consumers in the form of reducing MRP of the product.**
- iv. Arithmetic ratio > 5 can also arise in case of inverted duty structure, and the supplier is eligible to claim refund of the excess amount.

Sl. No	Name of the parties	Citation	Date of the Judgement
3	M/S Abel Space Solutions LLP ( <b>Applicant</b> ) Vs M/s Schindler India Private Limited ( <b>Respondent</b> )	2018 (6) Tmi 687 - The National Anti Profiteering Authority	31.05.2018

**Summary of Case No. 4/2018:**

**a. Facts**

- i. An application, dated 20.09.2017, was filed before the Standing Committee on 20.09.2017.
- ii. Applicant had placed orders for supply of two lifts in December, 2016. First lift was delivered, against which full payment was also made during pre-GST regime.
- iii. The issue is related to the second lift. The material was despatched to the Applicant on 29.03.2017. An advance was paid to the Respondent against invoice dated 28.06.2017, on which Service Tax was charged. **Installation was done on 27.07.2017**, i.e, in GST regime, when two more invoices were raised by the Respondent with tax (GST).

**b. Issue**

- i. It has been alleged by the Applicant that the tax (GST) has been charged without excluding the pre-GST regime Excise Duty amount on the material and hence the Respondent had charged tax twice.

**c. Decision**

- i. Based on the given facts, no substance was found in the claim filed by the Applicant and thus hereby orders dropping of the present proceedings as no violation of the provisions of section 171 of the CGST Act, 2017 has been established.

**d. Ratio**

- i. The Applicant had paid advance for purchase of the second lift and the Respondent had charged Service Tax which was leviable in pre-GST regime.
- ii. Supply and installation of lift amounted to "**Works Contract**" and as per Rule 2A of the Service Tax (Determination of Value) Rules, 2006, value of the service portion of the works contract was to be taken as equivalent to the gross amount charged for the works contract minus the value of property in goods transferred in the execution of the said contract and on the goods transferred Value Added Tax (VAT) was to be charged and on the service portion, Service Tax was leviable.
- iii. Explanation to Rule 3 of Point of Taxation Rules, 201, wherever any advance was received by the service provider against the taxable service, the point of taxation was to be construed as the date of receipt of such advance.
- iv. Installation of elevator was completed in the GST regime, and hence the point for levy of tax for supply of material fell under the GST regime and accordingly, two more invoices were issued on 27.07.2017 wherein the applicable GST was correctly charged.
- v. Respondent could have passed on the benefit of Excise Duty if the material was despatched on or after 01.07.2017 and since all the materials were delivered before 30.06.2017 and hence, he was not in a position to pass such benefit to the Applicant.

**Points to note from the Order:**

- i. GST is a new law. Applicant not being able to understand the provisions clearly, filed the application. Later on the Applicant being satisfied with the reply of the Respondent, requested DGSG to consider his application as withdrawn.
- ii. The application was considered as dropped by the Authority and not by DGSG.
- iii. An application, once filed, would move up to the level of Authority for final decision.

Sl. No	Name of the parties	Citation	Date of the Judgement
4	Sh. Rishi Gupta ( <b>Applicant</b> ) Vs M/s. Flipkart Internet Pvt. Ltd ( <b>Respondent</b> )	2018 (7) Tmi 1490 - National Anti-Profiteering Authority	18.07.2018

**Summary of Case No. 5/2018:**

**a. Facts**

- i. An application dated 11.01.2018 was filed by the Applicant before the Standing Committee.
- ii. Applicant ordered a Godrej Interio Slimline Metal Almirah **through** the Respondent vide his order no. 110666745976477000 on 04.11.2017 and a tax invoice dated 07.11.2017 was issued to him for an amount of ₹ 14,852/- by M/s. Godrej & Boyce Mfg. Co. Ltd., Mumbai (herein after referred as Supplier).
- iii. Rate of tax (GST) has been reduced by the Government of India on 14.11.2017 from 28% to 18%.
- iv. Another invoice dated 29.11.2017, at the time of delivery, was issued by the Supplier for an amount of ₹ 14,152/-.
- v. Respondent vide his letter dated 27.04.2018, intimated that excess amount of ₹ 700/- was refunded to the Applicant on 18.01.2018.

**b. Issues**

- i. Excess amount charged earlier should have been refunded to the Applicant, and
- ii. Respondent by not refunding the excess amount collected, has resorted to profiteering.

**c. Decision**

- i. Respondent was not the Supplier / Manufacturer of the Almirah, was only an **agent** who had offered his platform, i.e, a market place to the Supplier to sell the Almirah by charging commission, and was also not responsible for collection or refund of tax (GST). Hence, he cannot be held accountable for contravention of section 171 of the CGST Act, 2017.
- ii. Allegation of profiteering made by the Applicant against the Respondent as well as Supplier is not established and hence the present application is not maintainable and the same is dismissed.
- iii. As there may be several cases, where e-platforms have collected excess tax (GST) at the time of booking which are required to be refunded. Therefore, the Authority has already directed the Director General of Audit, Central Board of Indirect Taxes and Customs vide letter No. NAA/2018/DO/08/2011 dated 24.05.2018 to audit the major e-platforms and submit it's findings to the Authority.

**d. Ratio**

- i. The Respondent, being an agent, offered a market place which enabled the sellers to offer their products for direct sale to the customers for which it was charging commission.
- ii. Sellers were entirely responsible
- iii. Base price i.e, ₹ 11,993.75/-, was not changed by the Supplier either before or after the rate of change of tax.

Particulars	Break up of invoice dt. 07.11.2017	Particulars	Break up of invoice dt. 29.11.2017	Remarks	
				Particulars	(Latest price – earlier price) (₹)
Base price	11,993.75	Base price	11,993.87	Base price	-
GST @ 28%	3,358.25	GST @ 18%	2,158.87	GST	-1,199.38
Gross price	15,352.00	Gross price	14,152.74	Gross price	-1,199.38
Discount	500.00	Discount	-		-500.00
Invoice amount (GP – discount)	14,852.00	Invoice amount	14,152.74	Invoice amount	-700.00

- iv. ₹ 700/- was refunded to the Applicant by the Supplier on 18.01.2018.
- v. Withdrawal of discount of ₹ 500/- by the Supplier vide his invoice dated 29.11.2017 did not amount to profiteering as discount was given by the Manufacturer supplier out of profit margin.

**Points to note from the Order:**

- i. **Trade discount** is part of the trade margin of the Supplier, and **withdrawal of the trade discount doesn't amount to profiteering**.
- ii. As **base price** hasn't changed, profiteering cannot be invoked. Although the phrase "base price" hasn't been defined in the law, it appears to be 'taxable value' of the product under reference.
- iii. Authority can **suo moto initiate** action to **ensure that benefits are passed on to every recipient**.

Sl. No	Name of the parties	Citation	Date of the Judgement
5	Shri Pawan Sharma C/O Kalptaru Departmental & General Stores ( <b>Applicant no 1</b> ), Director General Anti-Profiteering, Indirect Taxes & Customs ( <b>Applicant no 2</b> ) Vs M/S Sharma Trading Company ( <b>Respondent</b> )	2018 (9) Tmi 625 - The National Anti-Profiteering Authority	07.09.2018

**Summary of Case No. 6/2018:**

**a. Facts**

- i. Applicant No. 1 was a distributor and stockist of M/s. Hindustan Unilever Limited (Manufacturer supplier).
- ii. Applicant No. 1 had bought **Vaseline VTM 400ml** on **26.09.2017** at **₹213.63/- per unit** vide tax invoice No. GSA25066 when **tax (GST) rate** was **28%**, and **20 units** of **Vaseline VTM 400ml** on **15.11.2017** at **₹213.63/- per unit** vide tax invoice No. GSA37782 when the **tax (GST) rate** was **reduced to 18%** on this product vide **Notification No. 41/2017 – Central Tax (Rate)** dated **14.11.2017**.
- iii. An application dated 22.11.2017 was filed by the Applicant No. 1 before the Standing Committee of Anti-Profiteering that the Respondent had indulged in profiteering in contravention of section 171 of the CGST Act, 2017 as the price of Vaseline VTM 400 ml was not reduced.
- iv. The application was referred by the Standing Committee of Anti-Profiteering to Director General of Anti-Profiteering (DGAP) for detailed investigation.
- v. DGAP asked the **Respondent** to **suo moto determine** the **quantum** of **benefit** which he had not passed on after the reduction in the rate of tax.
- vi. **20 units** of **Vaseline VTM 400ml** were **returned** by the Applicant No. 1 to the Supplier vide **Goods Return invoice No. 534 dated 15.12.2017** against which **CN No. AA021330** was issued by the **Supplier on 23.12.2017**.
- vii. Manufacturer supplier runs various Consumer Promotion Schemes (**CPS**) during the lean period by offering **additional quantity** or **along with** some **additional products**.
- viii. Additional quantity was offered in September, 2017 which was also in offering in November, 2017, when **MRP** was **retained** at **₹235/- for 400 ml** i.e, **additional 100 ml** was **offered** along with **300 ml of Vaseline VTM**.
- ix. **MRP** was **reduced** from **₹235/-** to **₹233/-** w.e.f **13.12.2017**.
- x. Respondent claims to be an intermediary in the supply chain.

**b. Issues**

- i. Section 171 of the CGST Act, 2017 did not provide for any methodology for determining the commensurate reduction in the prices.
- ii. It was alleged that the Respondent had not passed on the benefit of reduction in the rate of tax by lowering the price of Vaseline VTM 400 ml, and indulged in profiteering in contravention of the provisions of Section 171 of the CGST Act, 2017.

**c. Decision**

- i. The argument advanced by the Respondent appears to be frivolous as it involves only mathematical calculation of the amount by which the tax had been reduced i.e by 10% and after subtracting the same from the existing Maximum Retail Price (MRP), the MRP was to be re-fixed as per the provisions of the Legal Metrology (Packaged Commodities) Rules, 2011. It was also mandatory for the Respondent to declare the reduced MRP by affixing additional sticker or stamping or online printing as per letter No. WM-10(31)/2017 dated 16.11.2017 issued by the Ministry of Consumer Affairs, Food and Public Distribution.
- ii. Base price of Vaseline VTM 400 ml was increased by the Respondent exactly by the same amount by which the tax had been reduced. He was legally bound not to charge the enhanced base price and cannot escape his accountability of passing on the benefit of the reduction in the rate of tax to his customers. Allegation of profiteering has been duly established against him. Accordingly, the Respondent was directed to reduce the sale price of the product immediately commensurate to the reduction in the rate of tax as was notified on 14.11.2017 and pass on the benefit of reduction in the rate of the tax to his customers. Penalty is imposable.

**d. Ratio**

- i. Increase in base price of the product is as follows:

Particulars	Break up of price per unit when GST was 28% (₹)	Particulars	Break up of price per unit when GST was 18% (₹)	Remarks	
				Particulars	(Latest price – earlier price) (₹)
Base price	158.66	Base price	172.77	<b>Increase in base price</b>	<b>14.11</b>
GST @ 28%	44.42	GST @ 18%	31.10	GST	-13.32
Margin	10.55	Margin	9.77	Margin	-0.78
Per unit price	213.63	Per unit price	213.64	Per unit price	0.01



**Points to note from the Order:**

- i. **Additional quantity** offered to the customer, culminating in to reduction of per unit price i.e (herein ₹ per gram), was **not considered** by the Authority **as commensurate reduction in price** in terms of section 171 of the CGST Act, 2017.

Sl. No	Name of the parties	Citation	Date of the Judgement
6	Shri Sukhbir Rohilla along with 108 other Applicants <b>(collectively as 1<sup>st</sup> Applicants)</b> . & Director General Anti-Profitteering, Indirect Taxes & Customs <b>(2<sup>nd</sup> Applicant)</b> Vs M/s Pyramid Infratech Pvt. Ltd <b>(Respondent)</b> .		18.09.2018

**Summary of Case No. 7/2018:****a. Facts**

- Two projects viz. (1) Urban Homes, Sector 70A, Gurugram, and Urban Homes, Sector-86, Gurugram are being executed by the Respondent.
- Several applications were filed with the Haryana Screening Committee for appropriate redressal of their grievance. Applications were examined by the Screening Committee who decided to forward these applications to Standing Committee of Anti-Profitteering for further necessary action.
- Standing Committee confirmed that there was prima facie evidence of non compliance and forwarded these applications to now redesignated as Director General of Anti-Profitteering (DGAP) for detailed investigation.
- DGAP issued a notice to the Respondent to submit his reply in response to the allegations and to **suo moto declare** the amount of profiteering.
- Applicants booked flats under the Haryana Affordable Housing Policy, 2013.
- Payment was not linked to completion of construction mile stone based, instead was time based payment schedule.
- In pre-GST regime Service Tax was exempted and only VAT @5.25% was leviable for the project.
- In GST regime, rate of tax (GST) was 12% w.e.f 01.07.2017 and was reduced to 8% w.e.f 25.01.2018.
- Applicants alleged that benefit of input tax credit (ITC) which was available is much more than the output tax liability of the respondent.

**b. Issues**

- Whether there was any violation of the provisions of Section 171 of the CGST Act, 2017 in this case?
- If yes then what was the quantum of profiteering?.

**c. Decision**

- Excess ITC** was **available** to the **Respondent** the **benefit** of which he was **required to pass** on to the Applicants. The Respondent **cannot appropriate** this benefit as this is a concession given by the Government from it's own tax revenue to reduce the prices being charged by the builders from the vulnerable section of society which cannot afford high value apartments. The Respondent is not being asked to extend this benefit out of his own account and he **is only liable to pass on the benefit of ITC to which** he has **become entitled by virtue** of the **grant of ITC** on the **Construction Service** by the Government.
- It is **held** that the Respondent has **profiteered** an amount of **₹8,22,80,998/-**
- Profiteered amount is to be refunded to the Applicants along with interest @18% who have applied and also to those Applicants who have not applied as they are identifiable.

**d. Ratio**

- ITC ratio to Taxable Value in terms of % during pre-GST regime was 1.1%, whereas the same in GST regime is 7.2%. Thus **additional ITC availed** in terms of % of taxable supplies was **6.1%**.

**Points to note from the Order:**

- Concept of 'net benefit of ITC' was brought in to measure commensurate reduction in prices.
- Benefits are also to be passed on to Applicants who have not preferred application but are identifiable. In such cases, the amount along with interest is not required to be deposited with CWF.
- Increase in cost (herein primarily cost of steel) cannot be utilised in setting off the benefit of ITC as cost od escalation of price was factored in during fixing maximum per square feet rate.

Sl. No	Name of the parties	Citation	Date of the Judgement
7	Miss Neeru Varshney <b>(Applicant No. 1)</b> and Director General Anti-Profitteering <b>(Applicant No. 2)</b> Vs M/s Lifestyle International Pvt. Ltd. <b>(Respondent)</b>	2018 (9) Tmi 1640 - National Anti-Profitteering Authority	25.09.2018

**Summary of Case No. 8/2018:****a. Facts**

- An application dated 23.11.2017 was filed by the Applicant No. 1 before the Standing Committee.
- Applicant No. 1 had bought "**Maybelline FIT Me foundation**" (here-in-after referred to as the product) from the Respondent **@ ₹525/- per unit** vide tax invoice no. 1230010554 on 22.11.2017 which included GST @ 18%.
- Standing Committee examined the above application, and referred to DGAP for detailed investigation.

- iv. DGAP had called upon the Respondent to submit his reply on allegation levelled by the Applicant No. 1 and also to **suo moto determine** the quantum of benefit which had not been passed on to its buyers during the period between 15.11.2017 to 31.01.2018.
- v. Respondent was registered in different States and / or UTs, and thus maintained 24 GSTINs. Respondent further claimed that during the period between November, 2017 to January, 2018, he had given discount of 11.66% on the MRP which was more than what he was required to pass on consequent to the reduction in the rate of tax w.e.f 15.11.2017.
- vi. DGAP has further stated that the Respondent had sold **485 units of another shade** of the **product** between 01.11.2017 to 14.11.2017, in which **basic price per unit** was **increased** from **₹449/-** to **₹487/-** on which **GST** at a rate of **18%** was charged resulting no change in **MRP at ₹575/- per unit**.

**b. Issue**

- i. The Respondent had not passed on the benefit of reduction in the rate of tax by lowering the price of "Maybelline FIT Me foundation".

**c. Decision**

- i. Every citizen who is a recipient of supply of goods or services **has to get the benefit** and hence this **benefit** has to be **calculated on each and every product**. The Respondent has **no discretion to provide benefit on certain class of products and deny the same** in respect of the **other products**. Denial of the benefit as per the convenience of the Respondent is not permissible as it is hit by the provisions of section 171 of the CGST Act, 2017.
- ii. Respondent has **failed to reduce** base price due to reduction in tax (GST) and had **issued incorrect invoices** which is established.
- iii. Respondent is **directed** that to **reduce the price** of both the shades of the product to ₹ 410/- and ₹ 449/- respectively excluding GST. He is directed to **refund ₹ 41/- along with interest @ 18%** to the Applicant No. 1 from the date when this amount was realised by him from her till the date of refund. Since rest of the recipients are not identifiable the DGAP is directed to get the balance amount of profiteering of ₹ 15,820/- deposited in the Consumer Welfare Fund of the Central and the Concerned State Govt. as per provisions of law along with interest @ 18% till the amount is paid.
- iv. To **issue notice** to the Respondent to **show cause** as to why **penalty** as per provisions of Section 122 of the CGST Act, 2017 read with Rule 133 (3) (d) of the CGST Rules, should not be **imposed upon him**.
- v. The DGAP is directed to **investigate the claim** made by the **Respondent** in para no 27 that an amount of ₹ 1,98,46,438/- **might not have been passed** on to the individual buyers by him and **submit Report to the Authority** under Rule 129(6) of the above Rules..

**d. Ratio**

- i. Increase in per unit base price when **MRP was ₹550/-**:

Particulars	Break up of price per unit when GST was 28% (₹)	Particulars	Break up of price per unit when GST was 18% (₹) with same base price	Remarks	
				Particulars	(Latest price – earlier price) (₹)
Base price	410.00	Base price	410.00	Increase in base price	-
GST @ 28%	114.80	GST @ 18%	73.80	Reduction in GST	41.00
RSP unit price	525	RSP unit price	484	<b>Profit per unit price</b>	<b>41.00</b>

- ii. Increase in per unit base price whose **MRP was ₹575/-**:

Particulars	Break up of price per unit when GST was 28% (₹)	Particulars	Break up of price per unit when GST was 18% (₹) with same base price	Remarks	
				Particulars	(Latest price – earlier price) (₹)
Base price	449.00	Base price	449.00	Increase in base price	-
GST @ 28%	125.72	GST @ 18%	80.82	Reduction in GST	44.90
MRP unit price	575	RSP unit price	530	<b>Profit per unit price</b>	<b>45</b>

Thus it is evident that the per unit profiteering amount is exactly equals to the amount by which tax (GST) has been reduced.

**Points to note from the Order:**

- i. **Benefit** has to be **passed on** in respect of **each product** separately. The **effect of benefit** cannot be **calculated as a whole** for the purpose of passing off.
- ii. A taxable person (Respondent in this case) cannot be given liberty to decide which areas he should pass on the benefit and which areas he should not. Thus **every citizen** who is a **recipient of supply** of goods or services **has to get the benefit**.
- iii. Authority has the **power to extend jurisdiction** i.e the scope of investigation to pan India registrations and to **include**

other complainant / recipient, product or dealer etc.

- iv. Any **discount offered** by a taxable person (Respondent in this case) on the **product** can also **not to be taken** to have been **given in lieu of the reduction** in the **rate of tax** as such discounts are regular trade practices. Reduction in prices in general amounts to insufficient compliance.
- v. Law of averages cannot be applied when benefit is to be given to each and every customer.
- vi. In case operating expenses have increased, a taxable person (Respondent in this case) cannot be allowed to top up his margins from the amount of tax reduction.

Sl. No	Name of the parties	Citation	Date of the Judgement
8	Sh. Jijrushu N Bhattacharya ( <b>Applicant No.1</b> ) & Director General Anti-Profiteering ( <b>Applicant No. 2</b> ) Vs M/s. NP Foods (Franchisee M/s Subway India), ( <b>Respondent</b> )	2018 (9) Tmi 1763 - National Anti-Profiteering Authority	29.09.2018

**Summary of Case No.9/2018:**

**a. Facts**

- i. Respondent is a franchisee of M/s Subway India, and is free to buy raw material, fix sell price. Franchisor is entitled to royalty on the net turnover.
- ii. The Applicant purchased 6 Hara Bhara Kabab Sub on 14.11.2017 from the Respondent.
- iii. GST rate in restaurant service was reduced from 18% to 5% without input tax credit (ITC) from 15.11.2017.
- iv. Effect of denial of ITC was 11.80%, and Respondent increased base prices ranging from 6% to 17% of the different items, i.e, increase in average base prices by 12.14% to neutralize the effect of denial of ITC.

**b. Issues**

- i. Whether there was reduction in the rate of tax on the restaurant service after 14.11.2017 and whether the benefit as emanating from such reduced tax rate has not been passed to the Applicant No. 1 in terms of the commensurate reduction in the price of the product purchased by him?
- ii. Whether profiteering of ₹ 452/- was made by the Respondent y selling 32 numbers of items on 14.11.2017 in Karelibaug outlet at increased base price?

**c. Decision**

The allegation of not passing on the benefit on rate reduction is not established against the Respondent. There is no merit in the application filed by the Applicant No. 1 and the same is accordingly dismissed.

**d. Ratio**

- i. Respondent had increased the base price of his products to make good loss which had occurred due to of ITC post GST rate reduction.
- ii. There was no reduction of rate of tax (GST) on 14.11.2017.

**Points to note from the Order:**

- i. Increased in percentage of average price was compared with effect of denial of ITC to justify the increase.

Sl. No	Name of the parties	Citation	Date of the Judgement
9	Shri Ankur Jain ( <b>Applicant No. 1</b> ) & Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs ( <b>Applicant No. 2</b> ) Vs M/s Kunj Lub Marketing Pvt. Ltd ( <b>Respondent</b> )	2018 (9) Tmi 1763 - National Anti-Profiteering Authority	08-10-2018

**Summary of Case No. 10/2018:**

**a. Facts**

- i. Applicant No. 1 was a retailer, doing business in the name and style of M/s. Anil Kumar Jain & Sons and to whom the Respondent had been selling Nestle's products.
- ii. An application through email dated 29.11.2017 was filed before the Standing Committee on Anti-Profiteering by Applicant No. 1.
- iii. The application was examined by the Standing Committee on Anti-Profiteering in it's meeting held on 20.12.2017, where it was decided to refer the matter to the Director General of Safeguards (DGSG), now re-designated as Director General of Anti-Profiteering (DGAP), for further investigation.
- iv. Respondent was asked to **suo-moto determine** the quantum of benefit not passed on.
- v. Applicant No.1 stated to have purchased Maggi Noodle packs, each weighing 35 Gms., having Maximum Retail Price (MRP) of ₹ 5/- from the Respondent on 06.11.2017 vide invoice No. N1611 and on 28.11.2017 vide invoice No. N1867.
- vi. Respondent was alleged to have charged base price of ₹ 3.96 per packet with tax (GST) @ 18% on it and increased base price to ₹ 4.17 per packet when tax (GST) was reduced to 12% so that cum-tax price remains unchanged at ₹ 4.67/- per packet.
- vii. Respondent had claimed to have passed on the benefit of GST rate reduction in respect of the product bearing MRP of ₹ 5/- through other packs of Maggi Noodles having different grammage (Maggi Noodles pack of 70 Gms. Bearing MRP of ₹

12/- per pack).

viii. Respondent further claims that benefit passed on was more than what it would have required to be passed on and the benefit of GST rate reduction had been passed on in respect of Maggie Noodles as a whole.

**b. Issues**

i. Whether the benefit accrued due to reduction in the rate of tax of one product can be passed on via another product or not?

ii. Whether there was any violation on the provisions of Section 171 of the CGST Act, 2017 in this case?

iii. If yes then what was the quantum of profiteering?

**c. Decision**

i. The Respondent has contended that he had passed on the benefit in respect of the product by way of reducing the MRP of the 70 Gms. products. The Respondent has **no such liberty to arbitrarily decide in respect of which products he would pass on the benefit and in respect of which products he would not pass such benefit**. As per the provisions of Section 171 of the Act, the **benefit has to be passed on to each recipient** and the same **cannot be selectively granted or denied** as Maggi Noodle pack of **35 Gms is distinct** from from a **70 Gms pack** and both the packs may be **bought by the different recipients /customers**. Hence the **benefit accruing to one customer cannot be given or denied to another** nor can the benefit given to one set of customers arbitrarily enhanced and set off against the another. **No such adjustments are permissible under the Act**.

ii. The Respondent has resorted to **profiteering of Re. 0.24/- per pack**. It is beyond doubt that the benefit of reduction in the GST rate **was not passed** on to the recipients by way of commensurate reduction in the price charged by the Respondent which amounts to of the provisions of Section 171 of the CGST Act, 2017.

iii. Quantum of profiteering is determined as ₹ 90,778/- including the profiteering of ₹ 2,253/- made by the Respondent from Applicant No. . Accordingly he is directed to refund an amount of ₹ 2,253/- to the Applicant No.1 along with interest @18% p.a and is hereby directed to deposit the balance amount of ₹ 88,525/- along with interest at 18% p.a till the date of deposit in the respective Central or State Consumer Welfare Fund.

iv. The Respondent has realised more price from the consumers than the price he is entitled to and compelled them to pay more GST than they are required to pay by issuing incorrect invoices and hence committed offence under section 122 (1) (i) of the CGST Act, 2017 and therefore he is liable to for imposition of penalty. Accordingly, a Show Cause Notice be issued to the Respondent directing him to explain as to why the penalty prescribed under Section 122 of the above Act read with rule 133 (3) (d) of the CGST Rules, 2017 should not be imposed on him.

**d. Ratio**

i. Calculation of increase in base price in respect of **Maggi Noodle packs, each weighing 35 Gms.**

Particulars	Break up of price per unit when GST was 18%, invoice no N1611 dated 06.11.2017 (₹)	Particulars	Break up of price per unit when GST was 12%, invoice no N1867 dated 28.11.2017 (₹)	Remarks	
				Particulars	(Latest price – earlier price) (₹)
Base price	3.96	Base price	4.17	<b>Increase in base price</b>	<b>0.21</b>
GST @ 18%	1.06	GST @ 12%	0.83	-	-
MRP unit price	5.00	MRP unit price	5.00	Profit per unit price	-

**Points to note from the Order:**

i. **Benefit** has to be **passed on** in respect of **each product** separately. The **effect of benefit** cannot be **calculated as a whole** for the purpose of passing off.

ii. **Discount** given against **one product** cannot be **adjusted against another product** in respect of which benefit of reduction of tax was to be passed on.

## Conclusion:

- i. It seems that there exists confusion regarding identifying “commensurate reduction” to prices which eventually culminates into profiteering in GST regime.
- ii. The word “commensurate” has been defined in Cambridge dictionary to mean as “in a correct and suitable amount compared to something else”.
- iii. As the word “commensurate” has been used and not “equivalent”, thereby intention of the law is not to take the overall facts and circumstances into consideration to decide whether profiteering has been done or not.
- iv. Essentially there is no objection to profit in business but objection to profiteering out of the two reasons stated in the GST law.
- v. In many a cases DGSG / DGAP has asked the Respondents to **suo moto determine** the benefits of reduction of tax.
- vi. **The author of the article is personally of the view that if cost records were maintained by all the Respondents, increase in costs and other factors, as discussed supra, could easily be identified there from. “Authority” may also consider to prescribe a “format” for reporting figures which would be unique to all or at least a “format” for suppliers of goods and a “format” for suppliers of services to maintain uniformity. Thus section 148 of the Companies Act, 2013 may suitably be amended.**
- vii. **This will ease the task of the taxable persons to calculate how much benefits have been accrued to them.**
- viii. **Elongated supply chain spanning across manufactures, distributors, retailers, etc make it difficult for manufacturer to ensure that the benefits of rate reductions are passed on at every stage so as to reach the end consumers, more particularly with respect to pipeline stock as on the date of reduction of tax.**
- ix. M/s. Pyramid Infratech Pvt. Ltd is reported to have filed a writ petition against the order in Delhi High Court alleging that the **Anti-Profiteering mechanism lacks clarity.**
- x. Plenty of **issues** have been **addressed through the Orders**, discussed supra, many of them have been **pointed out** in this **article** under the heading **“points to note from the order”**, which appears to have been raised by the Respondents as those were not **specifically mentioned** in the law.
- xi. Thus Government of India may consider to publish clarification to diffuse confusion in the form of either “Notifications” or “Circulars” clarifying the points mentioned against each order, as discussed supra, along with any other clarifications as deems fit.

***Disclaimer:** This publication contains information solely for education purpose only. It is neither a guidance note nor is a professional advice nor is intended to address any specific circumstance of any individual or entity. The undersigned does not accept any responsibility for loss incurred by any person for acting or refraining to act as a result of any matter in this publication.*

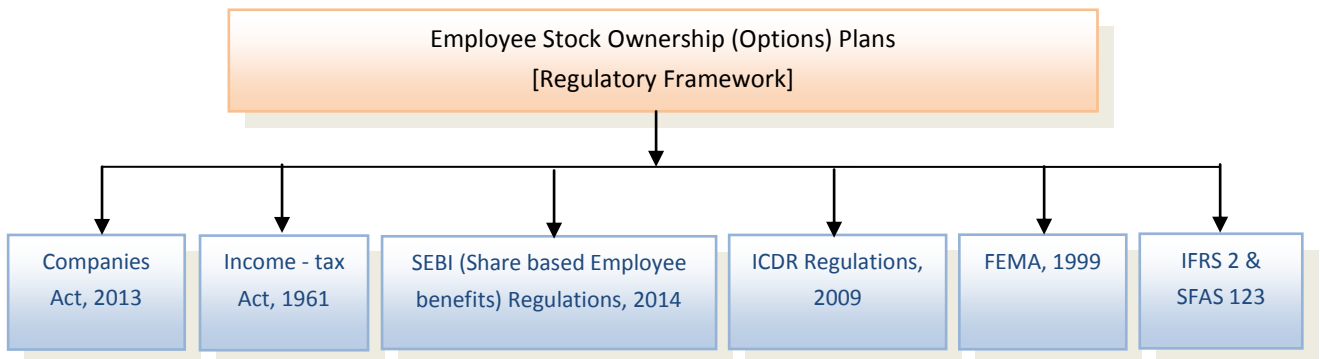


## ESOP – INCOME TAX PERSPECTIVE

**Prabhakar K S**  
Proprietor – Shree Tax Chambers

### Introduction

1. The Employee Stock Ownership (Options) Scheme (Plans) has seven decades long history. During the 1950s, an unconventional form of ownership was developed by Louis O. Kelso, a political economist and corporate lawyer, who is chiefly remembered as the Father of the Employee Stock Ownership Concept. ESOP is a generic term representing a basket of incentives or investments meant for employees of a corporate entity. In strict Company Law parlance, it is an option given to the whole-time directors, officers or employees the benefit or right to subscribe to its securities at a future date but at a predetermined rate. As said, it is an innovative way to motivate, reward, remunerate and to retain the employees. In this way, a set of employees will be granted the ownership of the entity. Human resource is one of the most useful resources to run any enterprise. Since a few last decades, the companies are using unique but untraditional methods of remunerating its employees in the form of ESOS, ESPS and Sweat Equity, etc. In India, when it comes to regulatory aspect on ESOP, a number of Statutes are required to be studied and keep in one's mind such as the Company Law, the Income-tax Law, Securities Laws, Foreign Exchanges Regulations, and also to some extent of International Financial Reporting Standards and Statement of Financial Accounting Standards. Earlier, only ESOS and ESPS were under the ambit of SEBI or Stock market regulator. Now, same have been expanded to others such as SAR, Restricted Stock award. However, the current article is restricted to Indian Tax laws.



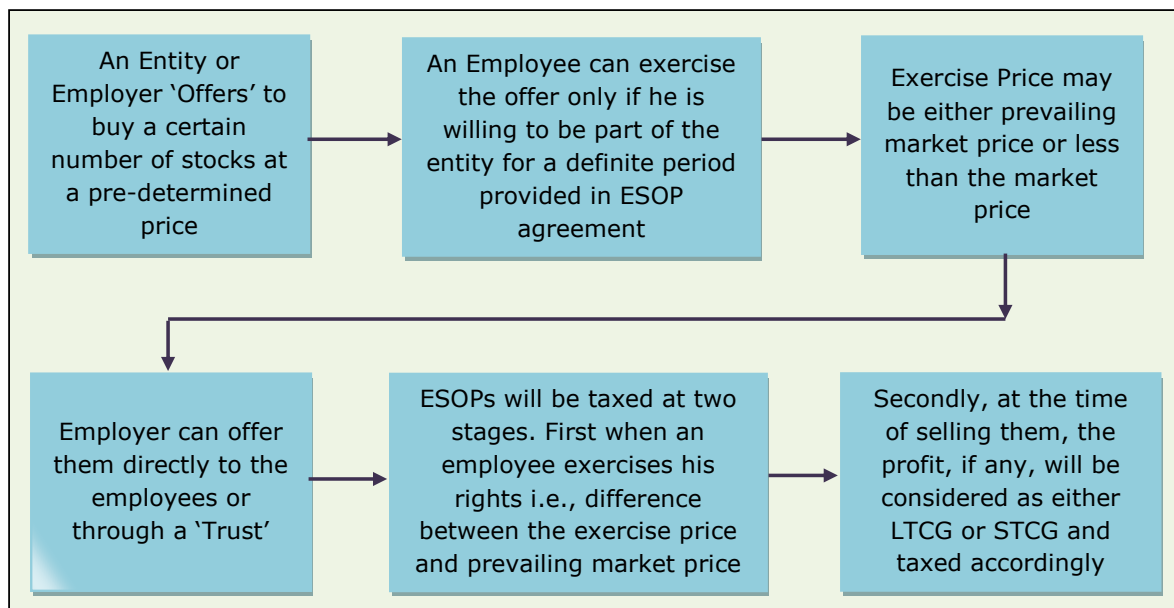
### PICTORIAL REPRESENTATION

### ESOP & its variance

2. There are certain variances of ESOPs, to name, Employee Stock Option Plan (ESOP), Employee Share Purchase Plan (ESPP) and Stock Appreciation Rights Plan (SAR), Sweat equity, Compensation Plans, Incentive Plans, Phantom ESOPs etc. However, In India the ESOP plan is prevalent due to regulatory restrictions. Under ESOP an entity grants an option to its 'eligible employees' to acquire its shares at a future date but at a predetermined price, whereas in ESPP a listed entity offers a right to acquire its shares instantly, unlike in ESOP at a future date for lower price compared to prevailing market prices with a lock-in-period. Under SAR, no such shares will be offered to its employee but he is given the appreciation in the value of shares between two specified dates as an incentive. SAR option is totally linked with the entity's performance as a whole. Restricted Stock award is an offer subject to certain conditions such as the employer has the right to cancel the entitlement if the conditions are not met. Sweat Equity shares are shares issued to its key directors and/or employees at a discount or for a consideration other than cash for providing know how or rights in the nature of intellectual property, etc.

**Is it mandatory or optional? How ESOPs work?**

3. No, it is not mandatory to accept or exercise the given option. It is left to the employee's discretion whether to exercise or let the option lapse in the case of prevailing prices of the shares is lower than the exercise price. In any case, the employee will be given a definite time period to opt for or forgone his rights. The date on which an employee exercises his option to buy them is known as 'exercise date'.



**PICTORIAL REPRESENTATION**

**Benefits of ESOPs to employer & Employee**

4. The benefits of ESOPs to employer and employee are in many ways. To an employer, chiefly, ESOPs motivate its employees, helps in retaining the workforce and provide tax breaks. To an employee, it provides an incentive to remain in the company, upon retaining the talented workforce, the company will prosper and underlying shares will yield a good return. Overall, it will lead to improved efficiency, productivity & profits and same will be no doubt a win-win situation for all the concerned. It is a useful tool for startup companies or those who are at the growing stage to attract talented human resources. It can also be used for expansion, when an entity is going for acquisition, creating a new division, etc. The entity, which opts for ESOP financing provides attractive tax benefits, firstly, its contributions are tax deductible. Secondly, the dividends paid on ESOP stock passed on through to employees or used to repay the ESOP loan are also deductible.

**Income Tax Provisions**

5. Prior to amendments vide the Finance Act, 2009, the ESOPs were under the ambit of Fringe Benefit Tax (FBT). From then on, it has been made taxable in the hands of employees as 'Perquisites', subject to certain conditions. Where the capital gain arises from the transfer of specified security or sweat equity shares as referred to in clause (vi) of the sub-section (2) of section 17 of the Act, the cost of acquisition of such security or shares shall be the Fair Market Value (FMV) on the date on which the option is exercised by the employee. In case the ESOPs are granted by foreign entities to an Indian resident, the same are also taxable in India, are subject to double taxation avoidance agreement, if any.

Sub-section (2AA) of Section 49 deals with tax implications of ESOPs as under —

**5.1 The issue of ESOPs and Tax implications:-**

**5.1-1** *If ESOPs issued in any previous year but up to previous year 2008-09*

Under the head Salaries	Since ESOPs are perquisites, not taxable under this head.	
Under the head Capital Gains	Sale consideration	Regular
	Cost of acquisition	If shares are allotted before 1-4-2007- at Actual cost
		If shares are allotted on or after 1-4-2007 but before 1-

		4-2009 -at Value of shares on the date on which the option vests with the employee
Under the head Capital Gains <i>Transferred by the employee by way of gift or irrevocable Trust</i>	Sale consideration	Market value as on date of such transfer
	Cost of acquisition	If shares are allotted before 1-4-2007 -at Actual cost.
		If shares are allotted on or after 1-4-2007 but before 1-4-2009 - at Value of such shares on the date on which the option vests in the employee.

**5.1-2 If ESOPs are issued on or after 1-4-2009 or in assessment year 2009–10 onwards:-**

Under the head Salaries	As a Taxable Perquisite/Difference between FMV as on the date of exercise of his option and cost at which it is offered	
Under the head Capital Gains	Sale consideration	Regular
	Cost of acquisition	FMV
		MV as on date of such transfer
Under the head Capital Gains <i>Transferred by the employee by way of gift or irrevocable Trust</i>	Sale consideration	MV as on date of such transfer
	Cost of acquisition	FMV

As said, ESOP will be taxed in two stages. In first, when an employee exercises his option at the exercise price and thereafter, when the shares are sold. In the first stage, the difference between the exercise price and the value of the shares is treated as 'Perquisite' in the hands of the employee and the employer is required to deduct tax at source. The value of the shares allotted to the employee shall be the average of market price, *i.e.*, average of highest and lowest price, on the date when the option is exercised in case the shares are listed. In case of the unlisted shares, the FMV as per the Valuation Certificate obtained from the merchant banker. The said certificate should not be older than 180 days from the date of exercise of his option.

Again, when the shares are disposed off they will attract Capital Gains Tax. Same can be either long-term or short-term, depending on the holding period. However, the holding period is different for listed and unlisted shares. Listed shares shall become long-term if held for more than one year. Unlisted shares become long-term after three years. Further, by the Finance Act, 2018 the period of three years has been reduced to two years. In case shares are traded, the long-term capital gains will be taxed under section 112A at 10 per cent over Rs. 1 lakh of capital gain. Similarly, if it is short-term capital gains, then the same will be taxed at a flat rate of 15% under Section 111A of the Act.

In case of unlisted shares, the long-term capital gains shall be calculated after applying the indexation and any gains will be taxed at a flat rate of 20% plus applicable surcharge and education cess. An employee has an option to pay tax at 10% on capital gains without applying for indexation benefits.

## 6. Important Case Laws

**6.1 Infosys Technologies Ltd. v. Dy. CIT [2003] 86 ITD 342 (Bang.)** – The assessee it formulated an Employee Stock Option Plan. To execute it, a Trust was set-up and allotted a certain number of warrants. Each warrant entitled the holder, thereby to apply for and be allotted one equity share. The trust was to hold the warrant and transfer the same to the employees of the company under the terms and conditions of the ESOP. The right of exercise was made available at the defined time period subject to continuance in the service of the company for a definite period. The tax was deducted at source on the salaries paid to the employees under Section 192 of the Act. However, while estimating the salary, the assessee-company did not consider the ESOP. The assessee contended that no perquisite arose to an employee as a result of ESOP. Income Tax Appellate Tribunal, Bangalore Bench, held that no further liability could be imposed upon assessee.

**6.2 CIT v. A. K. Khosla [2010] 191 Taxman 439/[2010] 327 ITR 406 (Mad.)** - The assessee was a chartered electrical engineer employed as a chief executive officer in the Company. He retired from the said Company on 31-1-2001 and received certain amount as non - compete fee, for not taking employment in any competing organization. The Hon'ble Madras High Court observed that if the object of payment was unrelated to the employer-employee relationship, then the same would not fall within expression 'profit in lieu of salary' under Section 17(3)(i). Section 17(3)(iii) which deals with joining bonus or severance pay came into force only from the Assessment year 2002-03 onwards, since the provision was prospective in nature, 'profits in lieu of Salary' would not apply to the assessee.

**6.3 Biocon Ltd. v. Dy. CIT [2013] 35 taxmann.com 335/[2014] 144 ITD 21 (Beng.-Trib.) (SB)** - The assessee was engaged in the manufacture of Pharmaceutical Ingredients. In 2000, it formulated the ESOP through a Trust for giving effect to the ESOP 2000 and another ESOP 2004 which was launched subsequently but during one of the years. The appellant-



company granted certain options and claimed deduction of such amount as 'Employee Compensation Cost' u/s. 37 of the Act by representing as discount under the ESOP 2000. The Assessing Officer disallowed the said claim u/s. 143(3) of the Act on the ground that there was no specific provision entitling the assessee to a deduction. The Assessing Officer also held that the assessee was not entitled to weighted deduction u/s. 35(2AB) on the expenditure incurred on software research under Section 147 of the Act. The Special Bench held discount as an expenditure and allowed over the period of vesting to the company on Straight Line Method basis.

**6.4 Asstt. CIT v. Chittaranjan A. Dasannacharya [2014] 45 taxmann.com 338/64 SOT 226 (Bang. Trib.)** - The said Assessee was a software engineer. Initially, served a US company as an independent consultant and thereafter as an employee. After returning to India, he became an employee US Company's India Unit. The parent company granted a stock option to the assessee, which gave right to him to acquire certain shares of the parent company. On the same day of exercising his option, sold the said shares and earned income. The Bangalore Bench of Tribunal held that the assessee was to be regarded as an employee for purpose of impugned plan and benefits arising out of this arrangement would be treated as his income under head 'salaries'.

**6.5 Novo Nordisk India (P.) Ltd. v. Dy. CIT [2014] 42 taxmann.com 168/63 SOT 242 (Bang. Trib.)** - The assessee was a wholly owned subsidiary of Novo Nordisk A/S Denmark and primarily engaged in the marketing and distribution of healthcare products. In 2005,

Novo Nordisk AS, the parent company, issued employee sops under the name and style of 'NNAS Global Share Programme 2005'. Its employees were entitled to purchase said shares at a price less than the market price. As per the ESOP programme, the difference between FMV of shares of parent company on date of issue of shares and price at which those shares were issued by the assessee to its employees was reimbursed by the assessee to its parent company. The sum so reimbursed was claimed as an expenditure or employee cost in its books of account. The Assessing Officer rejected the claim of the assessee for deduction of the aforesaid expenditure on ground that it resulted in the capital building of the parent company. The Bangalore Bench of the Tribunal, by relying on *Sassoon J. David & Co. (P.) Ltd. v. CIT [1979] 118 ITR 261/1 Taxman 485 (SC)* and *Mysore Kirloskar Ltd. v. CIT [1987] 166 ITR 836/30 Taxman 467 (Kar.)* held that the expenditure in question was wholly and exclusively used for the purpose of the business of the assessee and motivated its workforce and the deduction under section 37(1) of the Act.

## 7. Important case laws for further study

- ✓ *Wipro Ltd. v. Dy. CIT [2004] 2 SOT 611 (Bang.)*
- ✓ *Alok Kumar v. Jt. CIT [2007] 13 SOT 706 (Delhi)*
- ✓ *Ravi Kumar Sinha v. Dy. CIT [2007] 15 SOT 555 (Delhi)*
- ✓ *Makarand Gadre v. Asstt. CIT [2008] 21 SOT 454 (Hyd.)*
- ✓ *CIT v. Infosys Technologies Ltd. [2008] 166 Taxman 204/297 ITR 167 (SC)*
- ✓ *Sumit Bhattacharya v. Asstt. CIT [2008] 112 ITD 1 (Mum.) (SB)*
- ✓ *Giridhar Krishna M. v. Asstt. CIT [2009] 118 ITD 177 (Bang.)*
- ✓ *Muthuswamy Ravikumar v. Asstt. CIT [2009] 120 ITD 444 (Bang.)*
- ✓ *Kanu Kumar Mukerji v. Asstt. CIT [2008] 23 SOT 565 (Mum.)*
- ✓ *Asstt. CIT v. Smt. Tripti Sharma [2010] 1 ITR(Tri.) 471 (Mum)*
- ✓ *Asstt. CIT v. Dr. Dhurjati Gupta [2010] 127 TTJ 356 (Hyd.)*
- ✓ *Asstt. CIT v. Pramod H. Lele [2011] 13 taxmann.com 215/47 SOT 363 (Mum.)*
- ✓ *Asstt. CIT v. Ambrish Kumar Jhamb [2013] 32 taxmann.com 210/57 SOT 40 (URO) (Delhi - Trib.)*
- ✓ *Asstt. CIT v. Robert Arthur Keltz [2013] 35 taxmann.com 424/59 SOT 203 (Delhi - Trib.)*
- ✓ *Mrs. Smita Anand, In re [2014] 42 taxmann.com 366/223 Taxman 322/362 ITR 38 (AAR – New Delhi)*
- ✓ *CIT v. Bharat V. Patel [2015] 54 taxmann.com 170/229 Taxman 236 (Guj.)*

## Concluding Remarks

8. It was reported in The Economic Times issue dated 20th September, 2018, that Walmart was obligated to buy set of ESOPs worth nearly \$ 800 million from its Indian acquisition, Flipkart. The total worth of Flipkart's ESOP was about \$ 1.5 Billion based on the per share purchase price. However, their current employees will be allowed to liquidate 50 per cent of their vested ESOPs. No doubt, the ESOP re-purchase programme is a reward to employees of any entity for their service contribution.

# SUMMARY OF NOTIFICATIONS

TEAM TRD

**JULY 2018 - OCTOBER 2018**

## **NOTIFICATIONS - CENTRAL TAX**

Notification No.	Date	Subject	Description						
29/2018	6 <sup>th</sup> July, 2018	Seek to make amendments (Seventh Amendment, 2018) to the CGST Rules, 2017	<p>This notification came into force with effect from 12.06.2018. The following amendments had taken place as per this notification.</p> <ol style="list-style-type: none"> <li>In rule 125, the words "Directorate General of Anti-profiteering" has been substituted for the words "Directorate General of Safeguards".</li> <li>In rule 129, the words "Director General of Anti-profiteering" has been substituted for the words "Director General of Safeguards".</li> <li>In rule 130, in sub-rule (2), the words "Director General of Anti-profiteering" has been substituted for the words "Director General of Safeguards".</li> <li>In rule 131, the words "Director General of Anti-profiteering" has been substituted for the words "Director General of Safeguards".</li> <li>In rule 132, in sub-rule (1), the words "Director General of Anti-profiteering" has been substituted for the words "Director General of Safeguards".</li> <li>In rule 133, the words "Director General of Anti-profiteering" has been substituted for the words "Director General of Safeguards".</li> </ol>						
33/2018	10 <sup>th</sup> August, 2018	Seeks to prescribe the due dates for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs.1.5 crores for the period from July, 2018 to March, 2019	<p>Central has specified the due dates for filing GSTR 1 by the taxpayers having aggregate turnover of less than 1.5 crore rupees in the preceding financial year or the current financial year.</p> <table border="1"> <thead> <tr> <th>Quarter for which details in FORM GSTR-1 is to be furnished</th> <th>Time period for furnishing details in FORM GSTR-1</th> </tr> </thead> <tbody> <tr> <td>October - December, 2018</td> <td>31st January, 2019</td> </tr> <tr> <td>January - March, 2019</td> <td>30th April, 2019</td> </tr> </tbody> </table>	Quarter for which details in FORM GSTR-1 is to be furnished	Time period for furnishing details in FORM GSTR-1	October - December, 2018	31st January, 2019	January - March, 2019	30th April, 2019
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34/2018	10 <sup>th</sup> August, 2018	Seeks to prescribe the due dates for filing FORM GSTR-3B for the months from July, 2018 to March, 2019	<p>Central has specified that the due dates for filing GSTR 3B by the Regular Tax Payers for each of the months from July, 2018 to March, 2019 shall be on or before the 20th day of the month succeeding such month.</p>						
39/2018	4 <sup>th</sup> September, 2018	Seeks to make amendments (Eighth Amendment, 2018) to the CGST Rules, 2017	<p>The Central Government had made amendments in CGST Rules-</p> <p><b>Rule 22 (Cancellation of Registration) sub rule 4 –</b> 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."</p> <p><b>Rule 36 (Documentary requirements and conditions for claiming input tax credit) sub rule 2 –</b> 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."</p> <p><b>Rule 55 (Transportation of goods without issue of invoice) sub rule 5 –.</b> 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</p> <p><b>Rule 89 (Application for refund of tax, interest, penalty, fees or any other amount) sub rule (4), Clause</b> (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</p>						

			<p>(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.”.</p> <p>For going through the Forms given in the Notification, please click here:  <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-39-2018-central_tax_English.pdf;jsessionid=12F4F57432D9F08COD75F2014A6ED2B9">http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-39-2018-central_tax_English.pdf;jsessionid=12F4F57432D9F08COD75F2014A6ED2B9</a></p>														
41/2018	4 <sup>th</sup> September, 2018		<p>Late fee waived for the following classes of taxpayers:</p> <ol style="list-style-type: none"> <li>1. The registered persons whose return in FORM GSTR-3B for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number.</li> <li>2. The registered persons who have filed the return in FORM GSTR-4 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal.</li> <li>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.</li> </ol>														
44/2018	10 <sup>th</sup> September, 2018	Seeks to extend the due date for filing of FORM GSTR - 1 for taxpayers having aggregate turnover above Rs 1.5 crores.	<p>Central has extended the due dates for filing GSTR 1 by the taxpayers having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.</p> <table border="1"> <thead> <tr> <th>Quarter for which details in FORM GSTR-1 is to be furnished</th> <th>Time period for furnishing details in FORM GSTR-1</th> </tr> </thead> <tbody> <tr> <td>October, 2018</td> <td>11<sup>th</sup> November, 2018</td> </tr> <tr> <td>November, 2018</td> <td>11<sup>th</sup> December, 2018</td> </tr> <tr> <td>December, 2018</td> <td>11th January, 2019</td> </tr> <tr> <td>January, 2019</td> <td>11th February, 2019</td> </tr> <tr> <td>February, 2019</td> <td>11th March, 2019</td> </tr> <tr> <td>March, 2019</td> <td>11th April, 2019</td> </tr> </tbody> </table>	Quarter for which details in FORM GSTR-1 is to be furnished	Time period for furnishing details in FORM GSTR-1	October, 2018	11 <sup>th</sup> November, 2018	November, 2018	11 <sup>th</sup> December, 2018	December, 2018	11th January, 2019	January, 2019	11th February, 2019	February, 2019	11th March, 2019	March, 2019	11th April, 2019
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45/2018 And 46/2018 And 47/2018	10 <sup>th</sup> September, 2018	Seeks to extend the due date for filing of FORM GSTR - 3B for newly migrated (obtaining GSTIN vide notification No. 31/2018-Central Tax, dated 06.08.2018) taxpayers [Amends notf. No. 35/2017 and 16/2018 - CT]	The taxpayers who will 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.														
48/2018	10 <sup>th</sup> September, 2018	Seeks to make amendments (Ninth Amendment, 2018) to the CGST Rules, 2017.	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.														
49/2018	13 <sup>th</sup> September, 2018	Notification amending the CGST Rules, 2017 (Tenth Amendment Rules, 2018)	As per amendments made by Central Government FORM GSTR-9C has been inserted after FORM GSTR-9A. For full form with explanation, please follow - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-49-central-tax-english-new.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-49-central-tax-english-new.pdf</a>														
50/2018	13 <sup>th</sup> September, 2018	Seeks to bring section 51 of the CGST Act (provisions related to TDS) into force w.e.f 01.10.2018	Amendment is section 51 (Tax Deducted at Source) of CGST Act - Notwithstanding anything to the contrary contained in this Act, the Government may mandate: <ol style="list-style-type: none"> <li>a) an authority or a board or any other body, - <ol style="list-style-type: none"> <li>i. set up by an Act of Parliament or a State Legislature;</li> <li>ii. established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function;</li> </ol> </li> <li>b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);</li> <li>c) public sector undertakings.</li> </ol> <p>The provision of TDS under GST has been applicable from 1st October, 2018.</p>														
51/2018	13 <sup>th</sup> September, 2018	Seeks to bring section 52 of the CGST Act (provisions related to TCS) into force w.e.f 01.10.2018	The provision of TCS under GST has been applicable from 1st October, 2018.														
	20 <sup>th</sup> September,	Seeks to notify the rate of tax collection	Central Government has notified that every electronic commerce operator, not being an agent, shall collect an amount @ ¼% of the net value of intra-State taxable supplies														

52/2018	2018	at source (TCS) to be collected by every electronic commerce operator for intra-State taxable supplies	made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.
53/2018	9 <sup>th</sup> October, 2018	Seeks to make amendments (Eleventh Amendment, 2018) to the CGST Rules, 2017. This notification restores rule 96(10) to the position that existed before the amendment carried out in the said rule by notification No. 39/2018- Central Tax dated 04.09.2018.	The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax, dt. 18th October, 2017, or notification No. 40/2017-Central Tax (Rate) dt. 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate), dt. 23rd October, 2017, or notification No. 78/2017-Customs, dt. 13th October, 2017, or notification No. 79/2017- Customs, dt. 13th October, 2017.
54/2018	9 <sup>th</sup> October, 2018	Seeks to make amendments (Twelfth Amendment, 2018) to the CGST Rules, 2017. This notification amends rule 96(10) to allow exporters who have received capital goods under the EPCG scheme to claim refund of the IGST paid on exports and align rule 89(4B) to make it consistent with rule 96(10).	Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has – (a) received supplies on which the supplier has availed the benefit of the Government of India, notification No. 40/2017-Central Tax (Rate), dt. 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dt. 23rd October, 2017, (b) availed the benefit of notification No. 78/2017-Customs, dt. 13th October, 2017 or notification No. 79/2017-Customs, dt. 13th October, 2017 the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.”. For detailed explanation, please follow- <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-54-central-tax-english-2018.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-54-central-tax-english-2018.pdf</a>
56/2018	23 <sup>rd</sup> October, 2018	Seeks to supersede Notification No. 32/2017-Central Tax, dated 15.09.2017	The Central Government has specified the categories of casual taxable persons making inter-State taxable supplies of handicraft goods as defined in the “Explanation” in notification No. 21/2018 -Central Tax (Rate), dated the who shall be exempted from obtaining registration under the said Act. For detailed explanation, please follow- <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-56-central-tax-english-2018.pdf;jsessionid=D4A0CA841917104FFB1AA5A72A9C9C52">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-56-central-tax-english-2018.pdf;jsessionid=D4A0CA841917104FFB1AA5A72A9C9C52</a>
58/2018	26 <sup>th</sup> October, 2018	Seeks to provide taxpayers whose registration has been cancelled on or before the 30th September, 2018 time to furnish final return in FORM GSTR-10 till 31st December, 2018	The Central Government has notified that those persons whose registration under the said Act has been cancelled by the proper officer on or before the 30th September, 2018, shall furnish the final return in FORM GSTR-10 till the 31st December, 2018.
59/2018	26 <sup>th</sup> October, 2018	Seeks to extends the time limit for furnishing the declaration in FORM GST ITC-04 for the period from July, 2017 to September, 2018 till 31st December, 2018	The Central Government has amended the Notification No. 40/2018, dt. 4th September, 2018. In this notification, the time limit for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 has been extended till the 31st day of December, 2018.

### CIRCULARS - CENTRAL TAX

Circular No.	Date	Subject	Description
50/2018	31st July, 2018	Seeks to withdraw Circular No. 28/02/2018-GST dated	Circular No. 28/02/2018-GST, dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 was issued to clarify GST rate applicable on catering services, i.e., supply of food or drink in a mess or canteen in an educational institute.

		08.01.2018 as amended vide Corrigendum dated 18.01.2018 and Order No 02/2018-CT dated 31.03.2018 – reg.	Order No 02/2018-Central Tax dated 31.03.2018 was issued to clarify GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, in trains or at platforms (static units). According to 28th GST Council Meeting , Circular No. 28/02/2018-GST, dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 and Order No 02/2018-Central Tax dated 31.03.2018 is withdrawn w.e.f 27.07.2018.
51/2018	31st July,2018	Applicability of GST on ambulance services provided to Government by private service providers under the National Health Mission (NHM)	According to Circular No. 210/2/2018 Service Tax dt. 30.05.2018, Service of Transportation in ambulance provided by State Governments & Private Service Providers (PSPs) to patients are exempt. Ambulance Service provided by PSPs to State Governments under National Health Mission is a service provided to Govt. by way of public health and hence exempted. As regards the Service provided by PSPs to the State Governments by way of transportation of patients on behalf of the State Governments against consideration in the form of Fee or otherwise charged from the State Government, it is clarified that the same would be exempt under - <b>A)</b> SL. No. 3 of Notification No. 12/2017-Central Tax (Rate) dt. 28.06.2017 if it is a pure service and not a composite supply involving supply of any goods, and <b>B)</b> SL. No. 3A of Notification No. 12/2017-Central Tax (Rate) dt. 28.06.2017 if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply.
52/2018	9 <sup>th</sup> August,2018	Circular No. 52/26/2018-GST dated 09.08.2018 i.r.o. clarification regarding applicability of GST rates on various goods and services	1)Toned milk fortified (with vitamins „A“ and „D“) attracts NIL rate of GST under HSN Code 0401 2) Beet and cane sugar, including refined beet and cane sugar, fall under heading 1701 and attract 5% GST rate. 3) As both plain (unmodified) tamarind kernel powder and treated (modified) tamarind kernel powder fall under chapter 13, it is hereby clarified that both attract 5% GST in terms of the said notification. 4) Accordingly, supply of water, other than those excluded from S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at “NIL” rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST. 5) Normal human plasma is specifically mentioned at S. No. 186 of List I under S. No.180 of Schedule I of the notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017, and attracts 5% GST. Other items falling under HS Code 3002 (including plasma products) would attract 12% GST under S. No. 61 of Schedule II of the said notification, not specifically covered in the said List I. Thus, a harmonious reading of the two entries would mean that normal human plasma would attract 5% GST rate under List I (S. No. 186), whereas plasma products would attract 12% GST rate, if otherwise not specifically covered under the said List. 6) Wipes of various kinds are classifiable under heading 3307 or 3401 depending upon their constituents. Therefore, if the baby wipes are impregnated with perfumes or cosmetics, then the same would fall under HS code 3307 and would attract 18% GST rate. Similarly, if they are coated with soap or detergent, then it would fall under HS code 3401 and would attract 18% GST. 7) It is clarified that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance,would attract a uniform GST rate of 12% under tariff heading 5605. 8) It is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel),falling under tariff item 8408 10 93 attracts 5% GST. 9) Cotton quilts falling under tariff heading 9404 attract a GST rate of 5% if the sale value of such cotton quilts does not exceed Rs. 1000 per piece. However, such cotton quilts, with sale value exceeding Rs.1000 per piece attract a GST rate of 12%. The essential character of the cotton quilt is imparted by the filling material. Therefore, a quilt filled with cotton constitutes a cotton quilt, irrespective of the material of the cover of the quilt. The GST rate would accordingly apply. 10) Fabrication of buses may involve the following two situations: <b>a)</b> Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus. <b>b)</b> Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work). <b>C)</b> It is clarified that in case as mentioned at Para (a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para (b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly. 11) It is clear, in view of the HSN Explanatory Notes that the said goods, namely “Disc Brake pad” for automobiles, are appropriately classifiable under heading 8708 of the

			Customs Tariff Act,1975 and would attract 28% GST.
53/2018	9 <sup>th</sup> August,2018	Circular No. 53/27/2018-GST dated 09.08.2018 i.r.o. clarification regarding applicability of GST on petroleum gases retained for the manufacture of petrochemical and chemical products	<p><b>1)</b> GST on petroleum gases, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines, while a portion of the raw material is retained by these manufacturers (recipient of supply), and the remaining quantity is returned to the oil refineries.</p> <p><b>2)</b> In this regard, an issue has arisen as to whether in this transaction GST would be leviable on the whole quantity of the principal raw materials supplied by the oil refinery or on the net quantity retained by the manufacturers of petrochemical and chemical products.</p> <p><b>3)</b> It is clarified that, GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person. It is reiterated that this clarification would be applicable mutatis mutandis on other cases involving supply of goods, where feed stock is retained by the recipient and remaining residual material is returned back to the supplier. The net billing is done on the amount retained by the recipient.</p> <p><b>4)</b> This clarification is issued in the context of the GST only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.</p>
54/2018	9 <sup>th</sup> August,2018	Circular No. 54/28/2018-GST dated 09.08.2018 i.r.o. classification of fertilizers supplied for use in the manufacture of other fertilizers at 5 % GST rate.	<p><b>1)</b>Fertilizers falling under heading 3102, 3103, 3104 and 3105, other than those which are clearly not to be used as fertilizers, attract 5% GST. However, the fertilizers items falling under the above mentioned headings, which are clearly not to be used as fertilizer, attract 18% GST. The intention has been to provide concessional rate of GST to the fertilizers which are used directly as fertilizers or which are used in the manufacturing of complex fertilizers which are further used as soil or crop fertilizers. The phrase“other than clearly to be used as fertilizers” would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers.</p> <p><b>2)</b>Thus, it is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.</p>
55/2018	10 <sup>th</sup> August,2018	Taxability of services provided by Industrial Training Institutes (ITI) .	<p><b>1)</b> Whether GST is payable on vocational training provided by private ITI in designated trades and in other than designated trades.</p> <p><b>2)</b> Services provided by private ITI's in respect of designated trades (under the apprenticeship act, 1961).As a corollary services provided by such ITI's in respect of other designated trades will not be exempt.</p> <p><b>3)</b> Whether GST is payable on service provided by private ITI's for conduct of examination against consideration in the form of entrance fees and also on services related to admission to or conduct of examination.</p> <p><b>a)</b> For designated trades – it will be exempt</p> <p><b>b)</b> For non-designated trades – it will not be exempt</p> <p><b>4)</b> Services provided by a Government ITI to an individual trainees or students is exempt under s.no.6 of notification 12/2017-CT(R) dated 28.06.2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption would cover both – vocational training and examinations conducted by these Government ITI's.</p>
56/2018	24 <sup>th</sup> August,2018	Clarification on removal of restriction on refund of accumulated Input Tax Credit on fabrics	In the 28th GST Council meeting, it was decided to remove the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics. Please follow the link to get the circular in detail <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.56.pdf;jsessionid=58C394AB89C0A8241A464E65671794D7">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.56.pdf;jsessionid=58C394AB89C0A8241A464E65671794D7</a>
57/2018	4 <sup>th</sup> September,2018	Scope of Principal-agent relationship in the context of Schedule I of the CGST Act.	<p><b>Agent</b> - 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.</p> <p><b>Principal</b> - 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 <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.57.pdf;jsessionid=87D899A261CE8CCB56655438225E8D64">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.57.pdf;jsessionid=87D899A261CE8CCB56655438225E8D64</a></p>
58/2018	4 <sup>th</sup> September,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.

59/2018	4 <sup>th</sup> September,2 018	Clarification on refund related issues.	<p><b>Submission of invoices for processing of claims of refund</b></p> <p>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. 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  <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.59.pdf;jsessionid=90A3DF8C9F052637090A546FB6ED2654">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.59.pdf;jsessionid=90A3DF8C9F052637090A546FB6ED2654</a></p>
60/2018	4 <sup>th</sup> September,2 018	Processing of refund applications filed by Canteen Stores Department (CSD).	<p>The board specifies the manner and procedure for filing and processing of such refund claims as below:</p> <p><b>1) Filing Application for Refund.</b>  <b>Invoice-based refund:</b> 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.  <b>Manual filing of claims on a quarterly basis:</b> 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 required documents:</p> <p><b>2) Processing and sanction of the refund claim.</b>  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</p> <p><b>3)</b> 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  <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.60.pdf">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.60.pdf</a></p>
61/2018	4 <sup>th</sup> September,2 018	E-way bill in case of storing of goods in godown of transporter.	<p>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.</p> <p>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.</p> <p>Please follow the link to get the entire circular  <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.61.pdf;jsessionid=47D44B81C4799EC8EDF11B3784E4185A">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.61.pdf;jsessionid=47D44B81C4799EC8EDF11B3784E4185A</a></p>
62/2018	12 <sup>th</sup> September,2 018	Levy of GST on Priority Sector Lending Certificate-reg.	<p>Representations have been received requesting to clarify the following:</p> <p>(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.</p> <p>(ii) GST rate applicable on trading of PSLCs.</p> <p>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.</p>
63/2018	14 <sup>th</sup> September,2 018	Clarification regarding processing of refund claims filed by UIN entitles	<p>Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts provide for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs(hereinafter referred to as MEA). Generally, these letters of reciprocity have certain conditions specified on the basis of which refunds have to be processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (official or personal purposes). For more detail, click on the link  <a href="http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.63.pdf;jsessionid=14B9861F508C8BB906930D06BAEAE48">http://www.cbic.gov.in/resources//htdocsbec/gst/Circular_No.63.pdf;jsessionid=14B9861F508C8BB906930D06BAEAE48</a></p>

64/2018	14 <sup>th</sup> September,2 018	Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018 - regarding	<b>Section 68 of the CGST Act</b> - The person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be. For more detail, click on the link – <a href="http://www.cbic.gov.in/resources//htdocs/bec/gst/Circular_No.64.pdf;jsessionid=E8F4446C922A8A1DCC6B06013B3DC57E">http://www.cbic.gov.in/resources//htdocs/bec/gst/Circular_No.64.pdf;jsessionid=E8F4446C922A8A1DCC6B06013B3DC57E</a>								
65/2018	14 <sup>th</sup> September,2 018	Guidelines for Deductions and Deposits of TDS by the DDO under GST	Section 51 of the CGST Act 2017 provides for deduction of tax by the Government Agencies (Deductor) or any other person to be notified in this regard, from the payment made or credited to the supplier (Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. The amount deducted as tax under this section shall be paid to the Government by deductor within ten days after the end of the month in which such deduction is made along with a return in FORM GSTR-7 giving the details of deductions and deductees. Further, the deductor has to issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted etc.								
66/2018	26 <sup>th</sup> September,2 018	GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts	<b>1)</b> The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. <b>2)</b> Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga. <b>3)</b> However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.								
67/2018	28 <sup>th</sup> September,2 018	Modification to the Guidelines for Deductions and Deposits of TDS by the DDO under GST as clarified in Circular No. 65/39/2018-DOR dated 14.09.2018 - reg	Circular No. 65/39/2018 dated 14/09/2018, vide which Guidelines for Deductions and Deposits of TDS by the DDO under GST was issued which has been amended. To enable the DDOs to account for the TDS bunched together (in terms of Option II), following sub-head related to the GST-TDS below the Head 8658.00.101-PAO Suspense has been opened. <table border="1" data-bbox="650 1270 1436 1381"> <thead> <tr> <th>Major Head</th> <th>Sub Head Description</th> <th>Major Head Serial Code (8-digit reduced accounting code)</th> <th>SCCD Code</th> </tr> </thead> <tbody> <tr> <td>8658-00-101</td> <td>08-GST TDS</td> <td>86580344</td> <td>367</td> </tr> </tbody> </table>	Major Head	Sub Head Description	Major Head Serial Code (8-digit reduced accounting code)	SCCD Code	8658-00-101	08-GST TDS	86580344	367
Major Head	Sub Head Description	Major Head Serial Code (8-digit reduced accounting code)	SCCD Code								
8658-00-101	08-GST TDS	86580344	367								
68/2018	5 <sup>th</sup> October,201 8	Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017	UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.								
69/2018	26 <sup>th</sup> October,201 8	Circular on Standard Operating Procedure for Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16	A taxpayer can apply for cancellation of registration in FORM GST REG-16 within a period of 30 days of the „occurrence of the event warranting the cancellation for <b>(a)</b> Discontinuance of business or closure of business <b>(b)</b> Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise <b>(c)</b> Change in constitution of business leading to change in PAN <b>(d)</b> Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST <b>(e)</b> Death of sole proprietor. The application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16. For more clarification, please follow - <a href="http://www.cbic.gov.in/resources//htdocs/bec/gst/Circular-No-69_New.pdf;jsessionid=329B33542EEA4EDC8EB95997F72A3E8D">http://www.cbic.gov.in/resources//htdocs-bec/gst/Circular-No-69_New.pdf;jsessionid=329B33542EEA4EDC8EB95997F72A3E8D</a>								
70/2018	26 <sup>th</sup> October,201	Clarification on certain issues related to	In circular No. 59/33/2018-GST dt. 4th September, 2018, show cause notices are not required to be issued (and consequently no orders are required to be issued in FORM								



	8	refund	<p>GST RFD-04/06) in cases where refund application is not resubmitted after the issuance of a deficiency memo (in FORM GST RFD-03). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited is required to be recredited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.</p> <p>Further, Exporters who are importing goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.</p> <p>For more clarification, please follow -<a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No70_New.pdf;jsessionid=FC10609B119FA549356DACE23E73654C">http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No70_New.pdf;jsessionid=FC10609B119FA549356DACE23E73654C</a></p>											
71/2018	26 <sup>th</sup> October, 2018	Clarification on issues pertaining to registration as a casual taxable person & recovery of excess Input Tax Credit distributed by an Input Service distributor	<table border="1"> <thead> <tr> <th>Issue</th> <th>Clarification</th> </tr> </thead> <tbody> <tr> <td>Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?</td> <td> <p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p> </td> </tr> </tbody> </table> <p>For more details, please follow - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-71_New.pdf;jsessionid=E251E16D1795CAFAA5BED3583623D142">http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-71_New.pdf;jsessionid=E251E16D1795CAFAA5BED3583623D142</a></p>			Issue	Clarification	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>					
Issue	Clarification													
Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>													
72/2018	26 <sup>th</sup> October, 2018	Circular to clarify the procedure in respect of return of time expired drugs or medicines	<table border="1"> <thead> <tr> <th>Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer</th> <th>Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer</th> <th>Treatment in terms of tax liability &amp; credit note</th> </tr> </thead> <tbody> <tr> <td>1 st July, 2017</td> <td>20th September, 2018</td> <td>Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.</td> </tr> <tr> <td>1 st July, 2017</td> <td>20th October, 2018</td> <td>Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.</td> </tr> </tbody> </table>			Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note	1 st July, 2017	20th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.	1 st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.
Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note												
1 st July, 2017	20th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.												
1 st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.												

### CENTRAL TAX (RATE)

Notification No.	Date	Subject	Description
13/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 11/2017- Central Tax	The Central Government made the amendments in the Notification No.11/2017- Central Tax (Rate), dated the 28th June, 2017- In the said notification, in the Table, -

		(Rate) so as to notify CGST rates of various services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018.	(i) against serial number 7, in column (3),- (a) for item (i) and the entries relating thereto in columns (3), (4) and (5), the following was substituted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-2018-cgst-rateenglish.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-2018-cgst-rateenglish.pdf</a>			
14/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018	The Central Government made amendments in the Notification No.12/2017- Central Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(i)</b> in the Table, - <b>a)</b> against serial number 4, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” was omitted; <b>b)</b> against serial number 5, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” was omitted; <b>c)</b> after serial number 9C and the entries relating thereto, the following serial number and entries was inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-cgst-rateenglish.pdf;jsessionid=8CBA18110738F5ECDEF8509E4E86AF52">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-cgst-rateenglish.pdf;jsessionid=8CBA18110738F5ECDEF8509E4E86AF52</a>			
15/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to specify services supplied by individual Direct Selling Agents (DSAs) to banks/ non-banking financial company (NBFs) to be taxed under Reverse Charge Mechanism (RCM).	The Central Government made amendments in the Notification No.13/2017- Central Tax (Rate), dated the 28th June, 2017. In the said notification, - (i) in the Table, after serial number 10 and the entries relating thereto, the following serial number and entries was inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-cgst-rateenglish.pdf;jsessionid=669E71DA817AF56B80893D82700AA09C">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-cgst-rateenglish.pdf;jsessionid=669E71DA817AF56B80893D82700AA09C</a>			
16/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 14/2017- Central Tax (Rate) to notify that services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall be treated neither as a supply of good nor a service.	The Central Government made amendments in the Notification No.14/2017- Central Tax (Rate), dated the 28th June, 2017. In the said notification, in the first paragraph,- <b>(i)</b> after the words “State Government”, the words “or Union territory” was inserted; <b>(ii)</b> after the word “Constitution”, the words “or to a Municipality under article 243W of the Constitution” was inserted.			
17/2018	26 <sup>th</sup> July, 2018	Seeks to insert explanation in an item in notification No. 11/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.	The Central Government inserted following Explanation in Notification No.11/2017- Central Tax (Rate), dated the 28th June, 2017. “ <b>Explanation.</b> - For the purposes of this item, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.”			
18/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification No. 01/2017-Central Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of the GST Council in it’s 28th meeting held on 21.07.2018	The Central Government made amendments in the Notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(A)</b> in Schedule I - 2.5%, <b>(i)</b> after S. No. 102 and the entries relating thereto, the following serial number and the entries was inserted, namely:- <table border="1" data-bbox="650 1690 1419 1753"> <tr> <td>"102 A</td> <td>2207</td> <td>Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"</td> </tr> </table> For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-18-2018-cgst-rateenglish.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-18-2018-cgst-rateenglish.pdf</a>	"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"
"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"				
19/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification No. 02/2017-Central Tax (Rate), dt. 28-06-2017	The Central Government made amendments in the Notification No.2/2017-Central Tax (Rate), dated the 28th June, 2017. In the said notification, in the Schedule, - <b>(i)</b> after S. No. 92 and the entries relating thereto, the following serial number and the			

		to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	entries was inserted, namely: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">"92 A</td> <td style="width: 20%;">1401</td> <td>Sal leaves, siali leaves, sisal leaves, sabai grass"</td> </tr> </table> For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-cgst-rate-english.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-cgst-rate-english.pdf</a>	"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"
"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"				
20/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification No 05/2017-Central Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	The Central Government made amendments in the Notification No.5/2017-Central Tax (Rate), dated the 28th June, 2017. In the said notification, in the opening paragraph the following proviso was inserted, namely:- "Provided that,- <b>(i)</b> nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and <b>(ii)</b> in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse."			
21/2018	26 <sup>th</sup> July, 2018	Seeks to prescribe concessional CGST rate on specified handicraft items, to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	The Central Government exempted the intra-state supplies of handicraft goods. <b>"handicraft goods"</b> means – Goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-cgst-rateenglish.pdf;jsessionid=959B59E16CC14F1BAEA21D7DC4FCC740">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-cgst-rateenglish.pdf;jsessionid=959B59E16CC14F1BAEA21D7DC4FCC740</a>			
23/2018	20 <sup>th</sup> September, 2018	Seeks to insert explanation in an entry in notification No. 12/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.	The Central Government inserted the explanation in the Notification 12/2017 dated 28 <sup>th</sup> June, 2017 to clarify scope & applicability of the said notification. <b>Explanation.</b> -For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory."			

## INTEGRATED TAX

Notification No.	Date	Subject	Description
2/2018	20 <sup>th</sup> September, 2018	Seeks to notify the rate of tax collection at source (TCS) to be collected by every electronic commerce operator for inter-State taxable supplies	Central Government notified that every electronic commerce operator, not being an agent, shall collect an amount @1% of the net value of inter-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.
3/2018	22 <sup>nd</sup> October, 2018	Seeks to supersede Notification No.8/2017 – Integrated Tax, dated 14.09.2017	The persons making inter-State taxable supplies of handicraft goods as defined in the "Explanation" in notification No. 21/2018 -Central Tax (Rate), dt. 26th July, 2018 shall be exempted from obtaining registration. For more details, please follow - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-3-2018-igst-english.pdf;jsessionid=23704124B1B5C133F87B776BA33B570F">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-3-2018-igst-english.pdf;jsessionid=23704124B1B5C133F87B776BA33B570F</a>

## INTEGRATED TAX RATE

Notification No.	Date	Subject	Description
14/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 8/2017- Integrated Tax (Rate) so as to notify IGST rates of various services as recommended by Goods and Services	The Central Government made amendments in the Notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, in the Table, - <b>(i)</b> against serial number 7, in column (3),- <b>a)</b> for item <b>(i)</b> and the entries relating thereto in columns (3), (4) and (5), the following has been substituted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-igst-">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-igst-</a>

		Tax Council in its 28th meeting held on 21.07.2018.	<a href="http://rateenglish.pdf;jsessionid=2CF7B4A29EE409600FDD6D4FCE63F66">rateenglish.pdf;jsessionid=2CF7B4A29EE409600FDD6D4FCE63F66</a>			
15/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 9/2017- Integrated Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018.	The Central Government made amendments in the Notification No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(i)</b> in the Table, - <b>a)</b> against serial number 4, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” has been omitted; <b>b)</b> against serial number 5, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” has been omitted; <b>c)</b> after serial number 10D and the entries relating thereto, the following serial numbers and entries has been inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-igst-rateenglish.pdf;jsessionid=3F31A5F32BDDD38A60B2895599EB875F">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-igst-rateenglish.pdf;jsessionid=3F31A5F32BDDD38A60B2895599EB875F</a>			
16/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to specify services supplied by individual Direct Selling Agents (DSAs) to banks/ non-banking financial company (NBFCs) to be taxed under Reverse Charge Mechanism (RCM).	The Central Government made amendments in the Notification No.10/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(i)</b> in the Table, after serial number 12 and the entries relating thereto, the following serial number and entries has been inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2018-igst-rateenglish.pdf;jsessionid=32F474EDE49FCACF9EBB2EEFDD434886">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2018-igst-rateenglish.pdf;jsessionid=32F474EDE49FCACF9EBB2EEFDD434886</a>			
17/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 11/2017- Integrated Tax (Rate) to notify that services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall be treated neither as a supply of good nor a service.	The Central Government made amendments in the Notification No.11/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 686(E), dated the 28th June, 2017, namely:- In the said notification, in the first paragraph,- <b>(i)</b> after the words “State Government”, the words “or Union territory” has been inserted; <b>(ii)</b> after the word “Constitution”, the words “or to a Municipality under article 243W of the Constitution” has been inserted.			
18/2018	26 <sup>th</sup> July, 2018	Seeks to insert explanation in an item in notification No. 8/2017 – Integrated Tax (Rate) by exercising powers conferred under section 6(3) of IGST Act, 2017.	The Central Government has inserted following Explanation in Notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017. <b>“Explanation.</b> - For the purposes of this item, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.”			
19/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification 01/2017- Integrated Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of the GST Council in it’s 28th meeting held on 21.07.2018	The Central Government made amendments in the Notification No. 1/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(A)</b> in Schedule I - 5%, <b>(i)</b> after S. No. 102 and the entries relating thereto, the following serial number and the entries has been inserted, namely:- <table border="1" data-bbox="650 1640 1419 1696"> <tr> <td>"102 A</td> <td>2207</td> <td>Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"</td> </tr> </table> For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-igst-rateenglish.pdf;jsessionid=CD6018C04744F79A2FF5F1F0A3F6EDD5">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-igst-rateenglish.pdf;jsessionid=CD6018C04744F79A2FF5F1F0A3F6EDD5</a>	"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"
"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"				
20/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification 02/2017- Integrated Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of	The Central Government made amendments in the Notification No.2/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, in the Schedule, - <b>(i)</b> after S. No. 92 and the entries relating thereto, the following serial number and the entries has been inserted, namely: <table border="1" data-bbox="650 1906 1419 1934"> <tr> <td>"92 A</td> <td>1401</td> <td>Sal leaves, siali leaves, sisal leaves, sabai grass"</td> </tr> </table>	"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"
"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"				

		the GST Council in its 28th meeting held on 21.07.2018	For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-20-2018-igst-rateenglish.pdf;jsessionid=09945E70F0ACC9C2DE812217BC6BFA71">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-20-2018-igst-rateenglish.pdf;jsessionid=09945E70F0ACC9C2DE812217BC6BFA71</a>
21/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification 05/2017- Integrated Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of the GST Council in its 28th meeting held on 21.07.2018	The Central Government made amendments in the Notification No.5/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, in the opening paragraph the following proviso has been inserted, namely:- “Provided that,- <b>(i)</b> nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1 <sup>st</sup> day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and <b>(ii)</b> in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.”. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-igst-rateenglish.pdf;jsessionid=85C84C9EC5704BB065B1AF85B76BAADE">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-igst-rateenglish.pdf;jsessionid=85C84C9EC5704BB065B1AF85B76BAADE</a>
22/2018	26 <sup>th</sup> July, 2018	Seeks to prescribe concessional IGST rate on specified handicraft items, to give effect to the recommendations of the GST Council in its 28th meeting held on 21.07.2018	The Central Government exempted the inter-state supplies of handicraft goods. <b>Explanation</b> - For the purpose of this notification, the expression “handicraft goods” means “Goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-22-2018-igst-rateenglish.pdf;jsessionid=1695AC1F8BE73B369CC156AE553275B1">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-22-2018-igst-rateenglish.pdf;jsessionid=1695AC1F8BE73B369CC156AE553275B1</a>
24/2018	20 <sup>th</sup> September, 2018	Seeks to insert explanation in an entry in notification No. 9/2017 – Integrated Tax (Rate) by exercising powers conferred under section 6(3) of IGST Act, 2017.	The Central Government inserted the explanation in the Notification 9/2017 dated 28 <sup>th</sup> June, 2017 to clarify scope & applicability of the said notification. <b>Explanation.</b> -For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.”.

### UNION TERRITORY TAX

Notification No.	Date	Subject	Description
12/2018	28 <sup>th</sup> September, 2018	seeks to notify the rate of tax collection at source (TCS) to be collected by every electronic commerce operator for intra-union territory (without legislature) taxable supplies.	Central Government notified that every electronic commerce operator, not being an agent, shall collect an amount @1/2% of the net value of intra-union territory (without legislature) taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.
13/2018	28 <sup>th</sup> September, 2018	seeks to notify the rate of tax collection at source (TCS) to be collected by every electronic commerce operator for inter-union territory (without legislature) taxable supplies.	Central Government notified that every electronic commerce operator, not being an agent, shall collect an amount @1% of the net value of inter-union territory (without legislature) taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.

## UNION TERRITORY TAX (RATE)

Notification No.	Date	Subject	Description
13/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify UTGST rates of various services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018.	The Central Government made amendments in the Notification No.11/2017- Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, in the Table, - <b>(i)</b> against serial number 7, in column (3)- <b>(a)</b> for item (i), and the entries relating thereto in columns (3), (4) and (5), the following has been substituted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-2018-utgst-rateenglish.pdf;jsessionid=9A17A70E7420E49A985EE5C245CC8ECF">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-2018-utgst-rateenglish.pdf;jsessionid=9A17A70E7420E49A985EE5C245CC8ECF</a>
14/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 12/2017- Union Territory Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018.	The Central Government made amendments in the Notification No.12/2017- Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(i)</b> in the Table, - <b>a)</b> against serial number 4, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” has been omitted; <b>b)</b> against serial number 5, in the entry in column (3), the words “Central Government, State Government, Union territory, local authority or” has been omitted; <b>c)</b> after serial number 9C and the entries relating thereto, the following serial number and entries has been inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-utgst-rateenglish.pdf;jsessionid=3BB62F31AE78D2DF4B5E0921FEAB5E23">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2018-utgst-rateenglish.pdf;jsessionid=3BB62F31AE78D2DF4B5E0921FEAB5E23</a>
15/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 13/2017- Union Territory Tax (Rate) so as to specify services supplied by individual Direct Selling Agents (DSAs) to banks/ non-banking financial company (NBFCs) to be taxed under Reverse Charge Mechanism (RCM).	The Central Government made amendments in the Notification No.13/2017- Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(i)</b> in the Table, after serial number 10 and the entries relating thereto, the following serial number and entries has been inserted. For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-utgst-rateenglish.pdf;jsessionid=52CB5C23C92AD0D32097A8EC01402FBD">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2018-utgst-rateenglish.pdf;jsessionid=52CB5C23C92AD0D32097A8EC01402FBD</a>
16/2018	26 <sup>th</sup> July, 2018	Seeks to amend notification No. 14/2017- Union Territory Tax (Rate) to notify that services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall be treated neither as a supply of good nor a service.	The Central Government made amendments in the Notification No.14/2017- Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, in the first paragraph, - <b>(i)</b> after the words “State Government” the words “or Union territory” has been inserted; <b>(ii)</b> after the words “Constitution” the words “or to a Municipality under article 243W of the Constitution” has been inserted.
17/2018	26 <sup>th</sup> July, 2018	Seeks to insert explanation in an item in notification No. 11/2017 – Union Territory Tax (Rate) by exercising powers conferred under section 8(3) of UTGST Act, 2017.	The Central Government inserted following Explanation in Notification No. 11/2017- Union Territory Tax (Rate), dated the 28th June, 2017. <b>“Explanation.</b> - For the purposes of this item, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.”
18/2018	26 <sup>th</sup> July, 2018	Seeks to amend Notification 01/2017- Union Territory Tax (Rate), dt. 28-06-2017 to give effect to the recommendations of the	The Central Government made amendments in the Notification No.1/2017-Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, - <b>(A)</b> in Schedule I - 2.5%, <b>(i)</b> after S. No. 102 and the entries relating thereto, the following serial number and the entries has been inserted, namely:-

		GST Council in it's 28th meeting held on 21.07.2018	<table border="1"> <tr> <td>"102 A</td> <td>2207</td> <td>Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"</td> </tr> </table> <p>For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-18-2018-utgst-rateenglish.pdf;jsessionid=96F988112E829B5D2727CD2DCF120DE9">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-18-2018-utgst-rateenglish.pdf;jsessionid=96F988112E829B5D2727CD2DCF120DE9</a></p>	"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"
"102 A	2207	Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)"				
19/2018	26 <sup>th</sup> July,2018	Seeks to amend Notification 02/2017- Union Territory Tax (Rate),dt. 28-06-2017 to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	<p>The Central Government made amendments in the Notification No.2/2017- Union Territory Tax (Rate), dated the 28th June, 2017.</p> <p>In the said notification, -</p> <p><b>(i)</b> after S. No. 92 and the entries relating thereto, the following serial number and the entries has been inserted, namely:</p> <table border="1"> <tr> <td>"92 A</td> <td>1401</td> <td>Sal leaves, siali leaves, sisal leaves, sabai grass"</td> </tr> </table> <p>For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-utgst-rate-english.pdf">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2018-utgst-rate-english.pdf</a></p>	"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"
"92 A	1401	Sal leaves, siali leaves, sisal leaves, sabai grass"				
20/2018	26 <sup>th</sup> July,2018	Seeks to amend Notification 05/2017- Union Territory Tax (Rate),dt. 28-06-2017 to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	<p>The Central Government made amendments in the No.5/2017-Union Territory Tax (Rate), dated the 28th June, 2017.</p> <p>In the said notification, in the opening paragraph the following proviso has been inserted, namely:-</p> <p>"Provided that,-</p> <p><b>(i)</b> nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and</p> <p><b>(ii)</b> in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse."</p>			
21/2018	26 <sup>th</sup> July,2018	Seeks to prescribe concessional UTGST rate on specified handicraft items, to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	<p>The Central Government has exempted the intra-state supplies of handicraft goods.</p> <p><b>Explanation</b> - For the purpose of this notification, the expression "handicraft goods" means "Goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility"</p> <p>For More Details, please follow the link - <a href="http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-utgst-rateenglish.pdf;jsessionid=8E28672B6083873E950226D799B94B6E">http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2018-utgst-rateenglish.pdf;jsessionid=8E28672B6083873E950226D799B94B6E</a></p>			
23/2018	20 <sup>th</sup> September,2018	Seeks to insert explanation in an entry in notification No. 12/2017 – Union Territory Tax (Rate) by exercising powers conferred under section 8(3) of UTGST Act, 2017.	<p>The Central Government inserted the explanation in the Notification 12/2017 dated 28<sup>th</sup> June, 2017 to clarify scope &amp; applicability of the said notification.</p> <p><b>Explanation.</b>-For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory."</p>			

### COMPENSATION CESS (RATE)

Notification No.	Date	Subject	Description								
2/2018	26 <sup>th</sup> July,2018	Seeks to amend Notification No. 1/2017 - Compensation Cess (Rate) dated 28.06.2017 to give effect to the recommendations of the GST Council in it's 28th meeting held on 21.07.2018	<p>The Central Government made amendments in the Notification No. 1/2017- Compensation Cess (Rate), dated the 28th June, 2017.</p> <p>In the said notification, in the Schedule, -</p> <p><b>(i)</b> after S. No. 41 and the entries relating thereto, the following serial numbers and the entries has been inserted, namely:-</p> <table border="1"> <tr> <td>"41 A</td> <td>27</td> <td>Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has not been availed by any person.</td> <td>Nil"</td> </tr> </table> <p><b>(ii)</b> after S. No. 42 A and the entries relating thereto, the following serial numbers and the entries has been inserted, namely:-</p> <table border="1"> <tr> <td>"42 B</td> <td>87</td> <td>Fuel Cell Motor Vehicles</td> <td>Nil"</td> </tr> </table>	"41 A	27	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has not been availed by any person.	Nil"	"42 B	87	Fuel Cell Motor Vehicles	Nil"
"41 A	27	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has not been availed by any person.	Nil"								
"42 B	87	Fuel Cell Motor Vehicles	Nil"								

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

### GOODS AND SERVICES TAX

#### CENTRAL TAX

**NOTIFICATION NO. 56/2018**

**Date- 23.10.2018**

The Central Government has specified the categories of casual taxable persons making inter-State taxable supplies of handicraft goods as defined in the "Explanation" in notification No. 21/2018 -Central Tax (Rate), dated the who shall be exempted from obtaining registration under the said Act.

For detailed explanation, please follow- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-56-central-tax-english-2018.pdf;jsessionid=D4A0CA841917104FFB1AA5A72A9C9C52>

**NOTIFICATION NO. 58/2018**

**Date- 26.10.2018**

The Central Government has notified that those persons whose registration under the said Act has been cancelled by the proper officer on or before the 30th September, 2018 shall furnish the final return in FORM GSTR-10 till the 31st December, 2018.

**NOTIFICATION NO. 59/2018**

**Date- 26.10.2018**

The Central Government has amended the Notification No. 40/2018, dt. 4th September, 2018.

In this notification, the time limit for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 has been extended till the 31st day of December, 2018.

## INTEGRATED TAX

**NOTIFICATION NO. 3/2018**

**Date- 22.10.2018**

The persons making inter-State taxable supplies of handicraft goods as defined in the "Explanation" in notification No. 21/2018 -Central Tax (Rate), dt. 26th July, 2018 shall be exempted from obtaining registration.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-3-2018-igst-english.pdf;jsessionid=23704124B1B5C133F87B776BA33B570F>

## CIRCULARS

### CENTRAL TAX

**CIRCULAR NO. 69/2018**

**Date- 26.10.2018**

***Subject: Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16***

A taxpayer can apply for cancellation of registration in FORM GST REG-16 within a period of 30 days of the „occurrence of the event warranting the cancellation for(a) Discontinuance of business or closure of business(b) Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise(c) Change in constitution of business leading



to change in PAN(d) Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST(e) Death of sole proprietor.

The application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16.

For more clarification, please follow - [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-69\\_New.pdf;jsessionid=329B33542EEA4EDC8EB95997F72A3E8D](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-69_New.pdf;jsessionid=329B33542EEA4EDC8EB95997F72A3E8D)

**CIRCULAR NO. 70/2018**

**Date- 26.10.2018**

*Subject: Clarification on certain issues related to refund*

In circular No. 59/33/2018-GST dt. 4th September, 2018, show cause notices are not required to be issued (and consequently no orders are required to be issued in FORM GST RFD-04/06) in cases where refund application is not resubmitted after the issuance of a deficiency memo (in FORM GST RFD-03). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited is required to be recredited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.

Further, Exporters who are importing goods in terms of notification Nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.

For more clarification, please follow - [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No70\\_New.pdf;jsessionid=FC10609B119FA549356DACE23E73654C](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No70_New.pdf;jsessionid=FC10609B119FA549356DACE23E73654C)

**CIRCULAR NO. 71/2018**

**Date- 26.10.2018**

*Subject: Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor*

Issue	Clarification
Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<ol style="list-style-type: none"> <li>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the “estimated net tax liability” only and not the gross tax liability.</li> <li>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</li> </ol>
As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by casual taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<ol style="list-style-type: none"> <li>1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</li> <li>2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</li> <li>3. In such cases he would not be required to pay advance tax for the purpose of registration.</li> <li>4. He can surrender such registration once the exhibition is over.</li> </ol>

<p>Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.</p>	<ol style="list-style-type: none"> <li>1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</li> <li>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</li> <li>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</li> <li>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act</li> </ol>
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For more details, please follow - [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-71\\_New.pdf;jsessionid=E251E16D1795CAFAA5BED3583623D142](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-71_New.pdf;jsessionid=E251E16D1795CAFAA5BED3583623D142)

**CIRCULAR NO. 72/2018**

**Date- 26.10.2018**

*Subject: Circular to clarify the procedure in respect of return of time expired drugs or medicines*

<b>Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer</b>	<b>Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer</b>	<b>Treatment in terms of tax liability &amp; credit note</b>
1 st July, 2017	20th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.
1 st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

**CUSTOMS**

**NON TARIFF**

**Notification No. 87 /2018-Customs (NT)**

**Dated: 18.10.2018**

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.

<i>Sl. No.</i>	<i>Foreign Currency</i>	<i>Rate of exchange of one unit of foreign currency equivalent to Indian rupees</i>	
		<i>(For Imported Goods)</i>	<i>(For Export Goods)</i>
1	Australian Dollar	53.70	51.35
2	Bahrain Dinar	201.20	188.70
3	Canadian Dollar	57.70	55.75

For more details, please follow the link - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt87-2018.pdf;jsessionid=26525B809B24C88131C87D7BD3F2DFA4>

**Notification No. 88 /2018-Customs (NT)**

**Dated: 30.10.2018**

Sea Cargo Manifest and Transhipment Regulations, 2018 shall come into force from 1<sup>st</sup> March 2019 instead of 1<sup>st</sup> November, 2018.

**ANTI DUMPING DUTY**

**Notification No. 53/2018-Customs (ADD)**

**Dated: 18.10.2018**

Antidumping duty shall be levied on import of "Flax yarn below 70 Lea count "from China PR as after investigating, the designated authority has come to conclusion that:

- i. the subject goods have been exported from the subject country to India below its normal value, resulting in dumping;
  - ii. the domestic industry has suffered material injury due to dumping of the product under consideration from the subject country;
  - iii. the material injury has been caused by the dumped imports of the subject goods from subject country;
- and has recommended the imposition of definitive anti-dumping duty on imports of the subject goods, originating in, or exported from subject country and imported into India, in order to offset dumping and injury.

The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the 19th day of October, 2018 and shall be paid in Indian currency.

Link of detailed Notification: <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-add2018/csadd53-2018.pdf>

**Notification No. 54/2018-Customs (ADD)**

**Dated: 09.10.2018**

Antidumping duty shall be levied on import of "Straight Length Bars and Rods of Alloy Steel" from China PR as after investigating, the designated authority has come to conclusion that:

- i. the subject goods have been exported from the subject country to India below its normal value, resulting in dumping;
  - ii. the domestic industry has suffered material injury due to dumping of the product under consideration from the subject country;
  - iii. the material injury has been caused by the dumped imports of the subject goods from subject country;
- and has recommended the imposition of definitive anti-dumping duty on imports of the subject goods, originating in, or exported from subject country and imported into India, in order to offset dumping and injury.

The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the 19th day of October, 2018 and shall be paid in Indian currency.

Link of Detailed Notification: <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-add2018/csadd54-2018.pdf;jsessionid=7C21F32BCBE8B44F1D685448C67CEBC2>

**CIRCULARS**

**Circular No. 38/2018 – Customs**

**Dated: 18.10.2018**

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

It is to be noted that an applicant desirous of manufacturing or carrying out other operations in a bonded warehouse under section 65 read with MOOWR, 1966 must also have the premises licensed as a private bonded warehouse under section 58 of the Customs Act.

Post the Finance Act, 2016 effecting amendments to Chapter IX of the Customs Act, 1962, the Warehouse (Custody and Handling of Goods) Regulations, 2016 were notified on 14th May 2016 and Circular No. 25/2016-Cus dated 8th June

2016 was issued, which collectively enjoins that licensees shall maintain accounts of receipt and removal in prescribed formats in digital form and furnish the same to the bond officer on monthly basis digitally. For the ease of doing business, it has been decided that a licensee operating under section 65, shall not be required to maintain two sets of records.

To the extent that the resultant product manufactured or worked upon in a bonded warehouse is exported, the licensee shall have to file a shipping bill and follow the procedure prescribed under the Warehoused Goods (Removal) Regulations 2016 for transport of goods from the warehouse to the customs station of export. A GST invoice shall also be issued for such removal.

To the extent that the resultant product whether emerging out of manufacturing or other operations in the warehouse is cleared for domestic consumption, such a transaction squarely falls within the ambit of “supply” under Section 7 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the, “CGST Act”).

It would therefore be taxable in terms of section 9 of the CGST Act, 2017 or section 5 of the Integrated Goods and Services Tax Act, 2017 depending upon the supply being intra-state or inter-state.

For waste or refuse arising out of manufacture and other operations in relation to the resultant products cleared for export, where import duty on the waste or refuse is paid as per proviso to clause (a) to sub-section (2) of section 65, the same shall be deposited manually through a Challan.

It may be noted that units operating under section 65 read with section 58 of the Customs Act, are entitled to import capital goods, machinery, inputs etc. by following the provisions under Ch IX. In so far as domestic procurement is concerned, applicable rates of taxes shall be payable and exemptions, if any, can also be availed.

**Circular No. 39/2018 – Customs  
Dated: 23.10.2018**

**Electronic sealing – Deposit in and removal of goods from Customs bonded Warehouses**

The regulations require that goods arriving at the warehouse from a customs station shall be affixed with a one-time-lock with its serial number endorsed upon the bill of entry for warehousing and the transport document. The warehouse keeper or bond officer, as the case may be, is required to inspect the seal and when it is found intact, permit the goods to be unloaded at the warehouse. Circular 17/2016-Cus dated 14th May 2016 prescribes that in case of removal of goods from a customs station for deposit into a warehouse, the container or means of transport (closed trucks) should be affixed with a one-time-lock by the proper officer at the customs station.

Subsequently, the Board has prescribed RFID self-sealing for export of containerized cargo. Circulars 36/2017, 37/2017 and 41/2017 - Customs prescribe the use of “RFID tamper proof one-time-bolt seal” and providing of readers / procedure for its use by Customs. It has now been decided by the Board that RFID sealing shall be extended to transport of goods for deposit in a warehouse as well as removal therefrom. Therefore, where ever the Warehousing Regulations (referred in Para 1 above) prescribe affixing of a “One Time Lock”, the importer or owner of the goods shall use RFID anti-tamper one-time-locks (hereinafter referred as “RFID OTL”).

The RFID OTLs shall be sourced from the vendors who names appear in the list placed on the website of the CBIC (please see weblink alongside to circular 36 & 37/2017 on [www.cbic.gov.in](http://www.cbic.gov.in))

Considering the fact that goods may be removed through a variety of vehicles, different types of RFID OTLs, such as bolt seals (already specified by circular 36/2017-Cus) or wire - cable seal shall be used. The specifications, data elements and procedure to be used under the Regulations for Warehousing shall be as follows:

**Seals**

- i. For containers (RFID One-Time-Bolt Seal) As prescribed under circular 36/2017 – Customs dated 28th August 2017
- ii. For closed body vehicles (RFID Wire Cable seal)
  - a) Each seal shall be a one-time-lock bearing a unique serial number and brand of the vendor in the format ABCD XXXX XXXX, where ABCD stands for the brand of the vendor and X (8 digit) is a numerical digit from 0-9.
  - b) The RFID seal shall conform to ISO 17712:2013 and ISO/IEC 18000-6 Class 1 Gen 2 which is globally accepted in industrial applications and can be read with the use of UHF (i.e. 860 MHz to 960 MHz) Reader-Scanners.

- c) The manufacturer or vendor, as the case may be, shall be in possession of certifications required for conformance of the ISO standard ISO 17712:2013 namely, clauses 4, 5 and 6 (as applicable to cable-wire seals)
- d) Before commencement of sales, the vendor shall submit self-certified copies of the above certifications to the Risk Management Division (RMD).

**Circular No. 40/2018 – Customs**  
**Dated: 24.10.2018**

IGST Export Refunds – extension in SB005 alternate mechanism and revised processing in certain cases including disbursal of compensation Cess

CBIC has issued circulars 05/2018-Customs dated 23.02.2018, 08/2018-Customs dated 23.03.2018, 15/2018-Customs dated 06.06.2018 and 22/2018-Customs dated 18.07.2018 respectively wherein an alternative mechanism with an officer interface to resolve invoice mismatches (SB005 error) was provided for the shipping bills filed till 30.06.2018. Although the cases having SB005 error have gone down, but still representations have been received from exporters / associations that some exporters had, due to lack of familiarity/awareness, committed the same mistake due to which their IGST refunds are stuck and requested for extension of date. Issue has been examined and it has been observed that exporters are committing same mistakes again and again in spite of several sensitisation/outreach programmes. However, giving high priority to the interests of exporters, it has been decided by the Board to extend the rectification facility to Shipping Bills filed up to 15.11.2018.

It may be noted that SBs which have not been scrolled due to the IGST paid amount erroneously declared as 'NA' are already being handled through officer interface as per Board's Circular 08/2018 - Customs dated 23.03.2018. However, no such provision was hitherto available in respect of those SBs which were successfully scrolled, albeit with a lesser than eligible amount.

CBIC has been receiving representations where the refund scroll has been generated for a much lesser IGST amount than what has actually been paid against the exported goods. Broadly, this has happened due to:

- a) Error made by the exporter/CHA in declaring the IGST paid amount in SB or,
- b) Cases where Compensation Cess paid amount was not entered by the exporter in the SB along with the IGST paid amount or the same details were not transmitted by GSTN, and the scroll consequently got generated only for the IGST amount or,
- c) Typographical mistake by the customs officer while sanctioning the refund through officer interface

In a bid to provide relief to exporters in respect of categories indicated at Para 4 above, Directorate of Systems has now provided a facility in ICES for the processing and sanctioning of the eligible differential IGST refund. The facility would be officer interface based and is similar to the procedure for processing certain SB005 refund claims refer Circular No 05/2018- Customs dated 23.02.2018. This facility would be available only for cases where Shipping Bills have been filed till 15.11.2018.

It may be noted that only those SBs which have already been scrolled shall be available in this facility. Further, this facility can be used only once for each eligible SB to sanction the revised IGST amount. Thus, utmost care may be taken by the exporter while submitting the RRR as well as the sanctioning officer while sanctioning the revised amount as no further provision will be available for revising the refund sanction again.

With this facility, it is hoped that the eligible exporters will come forward for rectification of the mistakes to enable sanction of balance refund amount. Field formations are accordingly requested to give wide publicity to this circular including public notice, publication in local dailies, Customs house website, social media etc. and sensitize the trade and organised outreach programmes with major export associations/stakeholders within the stipulated time i.e.15.11.2018. Customs officers under your charge dealing with IGST refund may also be given suitable instructions to proactively and expeditiously process the revised refund requests.

**Circular No. 41/2018 – Customs**  
**Dated: 30.10.2018**

Electronic sealing – Deposit in and removal of goods from Customs bonded Warehouses.

This circular clarifies introduction of Electronic sealing for deposit in and removal of goods from customs bonded warehouses, from 1.11.2018 onwards.

## **DIRECT TAX**

### **INCOME TAX**

#### **Notification No. 68/2018**

**Dated: 22.10.2018**

1. The Central Government notifies for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), 'Kozhikode District Sports Council, Kozhikode', a body constituted under Section 9 of the Kerala Sports Act, 2000 (Act 2 of 2001), in respect of the following specified income arising to that body, namely:—
  - a) Grants from Government and State Sports Council;
  - b) Rent Collected from Stadium and shop rooms housed in Koyilandy stadium and VKK Mendon Indoor stadium;
  - c) Interest earned on (a) & (b) above.
2. This notification shall be effective subject to the conditions that Kozhikode District Sports Council, Kozhikode—
  - a) shall not engage in any commercial activity;
  - b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
  - c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
3. This notification shall be deemed to have been applied for the assessment years 2016-17, 2017-18 and 2018-19 and shall apply with respect to the assessment years 2019-20 and 2020-21

#### **Notification No. 69/2018**

**Dated: 22.10.2018**

1. The Central Government notifies for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), 'West Bengal Unorganised Sector Workers Welfare Board', Kolkata, a board constituted by the Government of West Bengal, in respect of the following specified income arising to that body, namely:—
  - a) Grant-in-Aid received from Government;
  - b) Registration fee and Monthly/yearly Subscription collected from the registered workers; and
  - c) Interest earned on (a) and (b) above.
2. This notification shall be effective subject to the conditions that West Bengal Unorganised Sector Workers Welfare Board, Kolkata, - (a) shall not engage in any commercial activity; (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
3. This notification shall be deemed to have been applied for the assessment year 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-23.

#### **Notification No. 70/2018**

**Dated: 22.10.2018**

1. The Central Government notifies for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), 'District Legal Service Authority' as specified in the Schedule to this notification, constituted by Government of Haryana for every District in the State of Haryana in exercise of powers conferred by sub-section (1) of section 9 of the Legal Services Authorities Act, 1987 (Central Act No. 39 of 1987), as a 'class of body' in respect of the following specified income arising to that body, namely:
  - a) Grants received from the Punjab and Haryana High Court, Central Authority i.e. National Legal Services Authority and State Authority i.e. Haryana State Legal Services Authority for the purposes of the Legal Services Authorities Act, 1987;
  - b) Grants or donation received from the Central Government or the State Government of Haryana for the purpose of the Legal Services Authorities Act, 1987;
  - c) Amount received under the order of the Court; (d) Fee received as recruitment application fee; and (e) Interest earned on (a) to (d) above.
2. This notification shall be effective subject to the conditions that each of the District Legal Service Authority.
  - a) shall not engage in any commercial activity;

- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
  - c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
3. This notification shall be deemed to have been applied for assessment Year 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22 & 2022-23.

**Notification No. 71/2018**

**Dated: 22.10.2018**

1. The Central Government notifies for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), 'Gujarat Real Estate Regulatory Authority', Gandhinagar, a body constituted by the Government of Gujarat,, in respect of the following specified income arising to that body, namely:—
  - a) Grants and loans received from the State Government;
  - b) All fees received under the Real Estate (Regulation and Development) Act, 2016 and the Gujarat Real Estate (Regulation and Development) (General) Rules, 2017;
  - c) Sums realized by way of penalties under sub-section (2) of the section 76 of the Real Estate (Regulation and Development) Act, 2016; and (d) Interest accrued on (a) to (c) above.
2. This notification shall be effective subject to the conditions that Gujarat Real Estate Regulatory Authority, Gandhinagar,—
  - a) shall not engage in any commercial activity;
  - b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
  - c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
3. This notification shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

**Notification No. 72/2018**

**Dated: 22.10.2018**

10<sup>th</sup> Amendment to Income Tax Rules, 1962 -

2. In the Income-tax Rules, 1962, \_\_

“(i) in rule 47, in sub-rule (1) and sub-rule (2), for the words, brackets and figure “sub-rule (2)”, the words, brackets and figure “sub-rule (3)” shall respectively be substituted;

(ii) in Appendix II

(a) for Form 36 and notes thereto, the following shall be substituted:-

[https://www.incometaxindia.gov.in/communications/notification/notification72\\_2018.pdf](https://www.incometaxindia.gov.in/communications/notification/notification72_2018.pdf)

**Notification No. 73/2018**

**Dated: 23.10.2018**

Amendment to Income-tax (Dispute Resolution Panel) Rules, 2009

1. Short title and commencement. \_\_

- 1) These rules may be called the Income–tax (Dispute Resolution Panel) (First Amendment) Rules, 2018.
- 2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Income–tax (Dispute Resolution Panel) Rules, 2009, in rule 14, for the words , figures and letter “Form No.36B”, the words, figures and letter “Form No.36 as contained in Appendix-II to the Income-tax Rules, 1962” shall be substituted.

**Notification No. 74/2018**

**Dated: 25.10.2018**

The Central Government has made following amendments in Income Tax Act, 1962-

**1. Short title and commencement, \_\_**

These rules may be called the Income-tax (Eleventh Amendment) Rules, 2018 & shall come into force from the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962,- (I) for rule 28, the following rule shall be substituted, namely: \_\_

**Application for grant of certificates for deduction of income-tax at any lower rates or no deduction of income-tax.**

**28. (1)** An application by a person for grant of a certificate for the deduction of income-tax at any lower rates or no deduction of income-tax, under sub-section (1) of section 197 shall be made in Form No. 13 electronically, \_\_

**(i)** under digital signature; or

**(ii)** through electronic verification code.

**(2)** The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13.”;

**(II)** in rule 28AA, \_\_

**(A)** in sub-rule (2), \_\_

**a)** in clause (ii), for the words “income, as the case may be, of the last three”, the words “or estimated income, as the case may be, of last four” shall be substituted

**b)** in clause (iv), after the word “payment”, the words “, tax deducted at source and tax collected at source” shall be inserted;

**c)** clause (v) and clause (vi) shall be omitted;

For more details, please follow –

[https://www.incometaxindia.gov.in/communications/notification/notification74\\_2018.pdf](https://www.incometaxindia.gov.in/communications/notification/notification74_2018.pdf)



# PRESS RELEASE

## INDIRECT TAX

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect taxes and Customs

### PRESS RELEASE

18.10.2018

Last date to avail input tax credit in respect of invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018 There appears to be misgiving about the last date for taking input tax credit (ITC) in relation to invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018. Such uncertainty seems to stem from the Government's decision to extend the last date for furnishing of details of outward supplies in FORM GSTR-1 from time to time.

According to section 16 (4) of the CGST Act, 2017, a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains (hereinafter referred to as "the said invoices") or furnishing of the relevant annual return, whichever is earlier.

With taxpayers self-assessing and availing ITC through return in FORM GSTR-3B, the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is the last date for the filing of such return for the month of September, 2018 i.e. 20th October, 2018.

It is clarified that the furnishing of outward details in FORM GSTR-1 by the corresponding supplier(s) and the facility to view the same in FORM GSTR-2A by the recipient is in the nature of taxpayer facilitation and does not impact the ability of the taxpayer to avail ITC on self-assessment basis in consonance with the provisions of section 16 of the Act. The apprehension that ITC can be availed only on the basis of reconciliation between FORM GSTR-2A and FORM GSTR-3B conducted before the due date for filing of return in FORM GSTR-3B for the month of September, 2018 is unfounded as the same exercise can be done thereafter also.

It may, however, be noted that the Government has extended the last date for furnishing of return in FORM GSTR-3B for the month of September, 2018 for certain taxpayers who have been recently migrated from erstwhile tax regime to GST regime vide notification No. 47/2018- Central Tax dated 10th September, 2018. For

such taxpayers, the extended date i.e. 31st December, 2018 or the date of filing of annual return whichever is earlier will be the last date for availing ITC in relation to the said invoices issued by the corresponding suppliers during the period from July, 2017 to March, 2018.

All the taxpayers are encouraged to take note of the legal requirements and be compliance savvy.

### PRESS RELEASE

31.10.2018

The rank in Trading across Borders has taken a quantum leap from 146 to 80 in the Doing Business report released by World Bank today. Among the 11 parameters based on which the rankings are determined and which include indices like Starting a Business, Getting Electricity and Resolving Insolvency, the improvement in India's overall ranking this year can be mainly attributed to an exceptional performance in Trading across Borders where India's rank improved from 146 to 80 since last year. This positive jump is due to a series of reforms undertaken by Customs in conjunction with Ministry of Shipping and all stakeholders such as importers, exporters, Customs Brokers, CFS operators, Shipping lines and Terminal Operators.

Trading Across Borders constitutes one of three most important components of the ten parameters which the World Bank measures. This parameter assesses the efficiency of time taken in clearing the imported and export goods and the cost involved in these processes. The rankings are a solid testimony of our commitment to improving the business environment in the country. Improvement in ranking is a clear endorsement and recognition of reforms carried out by Customs in last years.

Customs has undertaken several initiatives which included enhanced coordination with other ministries and stakeholders, extensive use of digitization and new technologies and business process re-engineering to facilitate trade. Customs has come out with a National Trade Facilitation Action Plan which provides a road map for fulfilment of India's commitments under the Trade Facilitation Agreement. These initiatives by the government have also earned praise by the World Customs Organization (WCO). By introducing SWIFT, a Customs Single Window, Customs has unified the entire clearance process on a single digital platform. It has given a fillip to trusted trader program by completely revamping AEO (Authorised Economic Operator) scheme. For trusted traders, facility of deferred payment of duty has been made available. Risk rules for interdicting consignments have been fine-tuned, which enabled higher facilitation levels. With the roll out of flagship reform eSANCHIT, Customs de-materialised the clearance ecosystem by dispensing with submission of hard copy of

the documents thereby making the entire process of consignment clearance faceless and paperless. Customs also introduced game changer initiative Direct Port Delivery (DPD). Almost 47% of the containers at India's biggest port Nhava Sheva can be cleared directly from the port to the importers premises within 60 hours. Containers now move seamlessly from port to importers warehouse without having to be parked in CFSs thereby cutting dwell time and cost. Self-sealing using RFID e-seals had been introduced on the export side. Now exporters can plan the movement of containers as per their scheduling without having to wait for departmental officers to seal the containers. A major push was given to allow more and more containers under direct port entry scheme so that routing through intermediary CFSs could be avoided. Customs has done a major software and hardware upgradation of ICEGATE. Time release studies (TRS) have been carried out at Nhava Sheva which clearly reflected the actual time of clearance in case of import as well as export was much lesser than the reflected in previous years ratings. Even the results of TRS have been vindicated in the DMICDC supervised Logistics Databank project which records the actual timestamps of export and import containers plying on the western sector. Ministry of Shipping has also ensured upgradation of infrastructure in the ports and introduced strict monitoring of time taken in port operations. The measures like Advance filing by Importers, Self-sealing using RFID seals by Exporters, supporting paperless clearance by Customs Brokers, issue of edelivery orders by Shipping lines, supporting DPD and DPE initiatives by CFS operators and faster evacuation time by Terminal operators have directly contributed to time and cost savings.

Customs department acknowledges the invaluable role by field officers and remarkable cooperation by all coordinating Ministries, especially Shipping, Commerce, DIPP, etc and all other stakeholders in achieving the improved rank. This improvement is the fruit of team effort. While substantive improvement in ranking has been achieved in Trading Across Borders, there is still room for further reforms which would be continued by CBIC in future.

## **DIRECT TAX**

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

### **PRESS RELEASE**

**22.10.2018**

Continuing the practice of placing key statistics relating to direct tax collections and administration in public domain, the Central Board of Direct Taxes has further released time-series data as updated up to FY 2017-18 and income distribution data for AY 2016-17 and AY

2017-18. The key highlights of these statistics are as under:

1. There is a constant growth in direct tax-GDP ratio over last three years and the ratio of 5.98% in FY 2017-18 is the best DT-GDP ratio in last 10 years.
2. There is a growth of more than 80% in the number of returns filed in the last four financial years from 3.79 crore in FY 2013-14 (base year) to 6.85 crore in FY 2017-18.
3. The number of persons filing return of income has also increased by about 65% during this period from 3.31 crore in FY 2013-14 to 5.44 crore in FY 2017-18.

There has been continuous increase in the amount of income declared in the returns filed by all categories of taxpayers over the last three Assessment Years (AYs). For AY 2014-15, corresponding to FY 2013-14 (base year), the return filers had declared gross total income of Rs.26.92 lakh crore, which has increased by 67% to Rs.44.88 lakh crore for AY 2017-18, showing higher level of compliance resulting from various legislative and administrative measures taken by the Government, including effective enforcement measures against tax evasion.

The total number of taxpayers (including corporates, firms, HUFs, etc.) showing income of above Rs. 1 crore has also registered sharp increase over the three-year horizon. While 88,649 taxpayers disclosed income above Rs. 1 crore in AY 2014-15, the figure was 1,40,139 for AY 2017-18 (growth of about 60%). Similarly, the number of individual taxpayers disclosing income above Rs. 1 crore increased during the period under reference from 48,416 to 81,344, which translates into a growth of 68%.

The average tax paid by corporate taxpayers has increased from Rs.32.28 lakh in AY 2014-15 to Rs.49.95 lakh in AY 2017-18 (growth of 55%). There is also an increase of 26% in the average tax paid by individual taxpayers from Rs.46,377/- in AY 2014-15 to Rs.58,576/- in AY 2017-18.

During the three-year period under reference, the number of salaried taxpayers has increased from 1.70 crore for AY 2014-15 to 2.33 crore for AY 2017-18 (up by 37%). The average income declared by the salaried taxpayers has gone up by 19% from Rs.5.76 lakh to Rs.6.84 lakh.

During the same period, there has also been a growth of 19% in the number of non-salaried individual taxpayers from 1.95 crore to 2.33 crore and the average non-salary income declared has increased by 27% from Rs. 4.11 lakh in AY 2014-15 to Rs. 5.23 lakh in AY 2017-18.

The availability of the time-series data and the income-distribution data of fairly long periods in the public domain will be found to be useful by the academicians, scholars, researchers, economists and the public at large in studying long-term trends of various indices of the

effectiveness and efficiency of direct tax administration in India.

The new releases are available alongwith older publications at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in).

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## **PRESS RELEASE**

**29.10.2018**

### Amendment of Rules 2C, 2CA and 11AA and Form Nos 10G, 56 and 56G of the Income-tax Rules, 1962 - draft notification placed in public domain

Currently, for grant of approval under sub-clauses (iv) and (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (the Act), for exemption of income received by any person on behalf of any other fund or institution, any trust or institution, rule 2C of the Income-tax Rules, 1962 (the Rules) provide for filing of application manually in Form No 56.

Similarly, for grant of approval under sub-clauses (vi) and (via) of clause (23C) of section 10 of the Act, for exemption of income received by any person on behalf of any university or other educational institution and any hospital or other institution, rule 2CA of the Rules provide for filing of application manually in Form No 56D. Further, rule 11AA of the Rules provide for filing of application manually in Form No 10G for grant of approval under clause (vi) of sub-section (5) of section 80G for deduction in respect of donations to any other fund or any institution to which section 80G applies.

Keeping in view the focus of the Government on digital initiatives, as also the fact that the Department is continuously automating its processes, it is imperative that manual filing of these applications should be done away with so as to ensure not only faster processing of the same but also to reduce the interface between the Department and the applicant.

Further, there is also a need to rationalize the rules and forms to align with the requirements of the present times.

In view of the above, these rules and forms are proposed to be amended by way of substituting:-

- a) rules 2C and 2CA with a new rule 2C and rule 11AA with new rule 11AA; and
- b) Form No 56 and 56D with a new Form No 56 and Form No 10G with a new Form 10G.

The draft notification proposing the above amendments has been formulated and uploaded on the website of the Income-tax Department ([www.incometaxindia.gov.in](http://www.incometaxindia.gov.in)) for inputs from stakeholders and general public. The inputs on the draft rules may be sent electronically at the email address, [ustpl1@nic.in](mailto:ustpl1@nic.in), latest by November 12, 2018.

# JUDGEMENTS

## INDIRECT TAX

### GST applicable to Advance Amount Received for Sale of Villas after Issue of Occupancy Certificate by Local Panchayat: GOA AAR

#### **Quattroporteluxury Homes LLP Vs. Goa AAR**

**Case No. – GOA/GAAR/2 of 2018-19/2270**  
**Date -03/08/2018**

#### **Fact of the Case**

1. The applicant is a limited Liability Partnership Firm engaged in the business of building villas for sale in Goa.
2. They construct villas for sale & issue occupancy certificate.
3. During the last year due to financial constrains they borrowed money from Mr. Zubin Dubash amounting to 5,50,00,000/- on 30/03/2017 and during this year they received an advance of Rs. 11,23,74,756/- from said person and the applicant has paid GST accordingly. The applicant submits that they have inadvertently paid the GST on the borrowings.

#### **Decision of the Case**

1. The authority noted that in case of supply of services specified above involving transfer of property in land or undivided share of land, as the case may be.
2. Such supply shall be deemed to be one third of the total amount charged for such supply.
3. It was further noted that the applicant has failed to produce supporting documents to prove that he has borrowed money from Mr. Zubin Dubash.
4. In absence of the supporting documents the amount received by the applicant has been considered as advances received towards sale of villa.
5. The applicant has received advance towards sale of villa prior to issuance of completion certificate. Hence, the same is taxable under GST Act @ 12%," the authority said.
6. So here the total amount of refund will be Rs.5,50,00,000+11,23,74,756=Rs. 167374756

### Petition seeks Interest for Delayed IGST Refunds: Gujarat HC issues notice to Centre and GSTN

#### **M/s Saraf Natural Stone Vs. Union of India**

**Case No. -15925 of 2018**  
**Date-12.10.2018**

#### **Fact of the Case**

1. The petitioner M/s Saraf Natural Stone has filed the writ petition before the Gujarat High Court seeking directions against GST department for providing the interest on the delayed refund that is beyond 60

days and compensation in for the delay of provisional refund.

2. Counsel for the Petitioners submitted before the Court that the petitioner is entitled to interest on refund at the rate of 6% wherein the provisions allow the same but the GST portal did not provide for such utility.
3. Further CGST Act provides if any tax ordered to be refunded then that should be within 60days from the date of receipt of application.
4. Interest rate of such late refund not exceeding 6% p.a.
5. The claim made by petitioner appears to be legally correct.

#### **Decision of the Case**

1. Rule 91 of CGST Rules, 2017 inter-alia provide that the provisional refund is to be granted within 7 days from the date of acknowledgement of the refund claim.

### Event Management Support Services provided in Goa to a Registered Person in Maharashtra subject to Integrated GST: AAR

#### **Grasshopper Production Vs. Goa AAR**

**Case No. – GOA/GAAR/3 of 2018-19/2269**  
**Date -03/08/2018**

#### **Fact of the Case**

1. The applicant is a service provider of event management to the clients in film shooting industry and providing the location for shootings as per the requirement of the clients.
2. All these services are procured from the supplier within the state of Goa.
3. Before the AAR, the applicant sought for a clarification on whether such services are subject to IGST.!

#### **Decision of the Case**

1. The authority noted that the applicant has provided services of event management to Gallani Enterprises who is registered in Mumbai.
2. It was, therefore, held that "The Event Management support services provided in Goa to a registered person in Maharashtra is governed u/s 12(7)(i) of the IGST Act.
1. Hence same should be treated as the interstate supply of services and IGST @ 18% is applicable.

### Goods can't be treated as "Smuggled" in the absence of Books of Accounts, IT or Sales Tax Registration: Bombay HC

**Union of India through Secretary, Ministry of Finance, Department of Revenue North Block, New Delhi &**

**Commissioner of Customs (Revn.) New Custom House, Ballard Estate Mumbai 400 001. Vs. Imtiaz Iqbal Pothiwala Crystal Tower, 401,& others**

**Case No. – Customs Appeal No.15 of 2007  
Date- 16<sup>th</sup> October, 2018**

**Fact of the Case**

1. With regard to the issue of onus of proof under section 123 of the act, it was contended on behalf of the department that the burden is upon the Respondent and that has to be discharged up to the hilt.
2. The bench rejected the contention and held that Section 123 of the Act, statutorily imposes a reverse burden of proof.
3. As per opinion of the Bench, this reverse burden of proof does not do away with the manner of discharging the burden of proof. Thus, the manner of discharging the burden of proof by shifting of the onus would be as applicable to all other civil proceedings.
4. It is important to bear in mind that it is not the case of the Revenue before us that burden of proof cast by Section 123 of the Act will only be satisfied when the legal import of gold bars is evidenced by the documents, establishing its import by also having Bills of Entry, and an order for home clearance by the Customs, in his possession.

**Decision of the Case**

1. The bench observed that in the absence of evidence in the form of regular Books of Account, Registration under the Income Tax and Sales Tax, etc., cannot ipso facto lead to the conclusion that the seized gold bars, are smuggled gold bars.
2. Smuggling as defined under Section 2 (39) of the Act, is an act or omission which will render goods liable to confiscation under Sections 111 of the Act for import and 113 of the Act for exports. On reading of Sections 111 and 113 of the Act, not keeping proper books of accounts or not being registered with the Income Tax and/or Sales Tax Authorities, is not an omission which renders the good liable for confiscation i.e. smuggled goods.”
3. So, Bombay High Court recently held that the goods cannot be treated as ‘smuggled’ on the ground of non-keeping of Books and non-registration with the Income Tax or Sales Tax department.

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**GST paid in respect of Brokerage Services can be adjusted against Output Tax payable on Renting of Immovable Property**

**M/s. Adwitya Spaces Private Limited Vs. Tamilnadu AAR**

**Case No. - 13/AAR/2018  
Date – 27<sup>th</sup> September, 2018**

**Fact of the Case**

1. In the instant case the applicant is an supplier of renting of immovable property.
2. The applicant has received an inward supply of real estate brokerage services for renting of property on a fee basis.
3. Due to the services of Catalyst Consulting Chennai, the applicant was able to make an outward supply of renting of the property to Vantec Logistics India private Limited. Hence, this inward supply was used in the course of the applicant’s business.
4. As per section 16(2) states that input tax credit is available only if the registered person is in possession issued by registered supplier.
5. A supply of the service has been received; tax has been paid by supplier to Government; the recipient (applicant) has filed returns; recipient has paid the supplier the amount within a period of 180 days.

**Decision of the Case**

The applicant eligible to take credit of the CGST & SGST charged by M/s. Catalyst Consulting for real estate brokerage services for renting of property on a fee basis rendered by Catalyst Consulting.

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**DIRECT TAX**

**Flat purchased for providing Residential Accommodation to Managing Director is a Business Necessity: ITAT**

**Aditya Jyot Eye Hospital Pvt. Ltd. Vs. ITO 6(1)-1**

**Case No. – I.T.A. No.5325/Mum/2015  
Date- 24<sup>th</sup> October, 2018**

**Fact of the Case**

1. In the instant case the Company is an assessee who purchased a flat at Dadar for the residence of CMD of the assessee company.
2. The assessee took bank loan amounting Rs. 3 crores & made payment of installment along with interest.
3. The A.O declined the claim of the assessee u/s – 2(22)(e) of the IT Act,1961, on the ground that there was no business nexus between the residential premises & assessee company.
4. Before the Tribunal, the assessee argued that the assessee can purchase the flat for his CMD where he can treat the patient of the hospital very conveniently when the residence is near to hospital, therefore, it is a business necessity.

**Decision of the Case**

1. The Tribunal observed that The assessee company neither transferred the funds outside the company nor to the director, therefore, the provision of Section 2(22)(e) of the Act is not applicable to the facts of the case.

2. The claim of interest to the tune of Rs.24,62,285/- is revenue in nature, therefore, is liable to be allowed.
3. The Tribunal also allow the claim of the assessee company for such interest expenditure on bank loan taken for the purpose of the assessee business.
4. The assessee is also entitled to claim the depreciation @ 5% of the total value of the purchase of Rs.34,72,037/-.
5. Finally the Tribunal allowed the appeal of assessee company and deleted the order of the Assessing Officer.

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[100% exemption for 1st 10 years in case of manufacturing concern entitled](#)

**Commissioner of Income Tax Vs. M/S Classic Binding Industries**

**Case No.- Civil Appeal No.(s)-7208 of 2018**  
**Date – 20<sup>th</sup> August, 2018**

**Fact of the Case**

1. A lot of companies are the assesseees in the instant case.
2. The assesseees set up a new manufacturing industry. They apply for 100% exemption from income of profit & gains for 1<sup>st</sup> 5 years from the beginning of their setting up industry under section 80-IC & subsection (2) in the specified area.
3. Under this section above exemption @ 25% (30% in case of company) is also allowed for another 5 years. But no exemption is allowed beyond 10 years.
4. During this period those assesseees carried out "Substantial Expansion" and they claimed exemption @ 100% from 6<sup>th</sup> to 10<sup>th</sup> years from the beginning of setting up of business.
5. The High Court answered the question in affirmative and for this reason the income tax department has come up to this court challenging the said decision by filing these appeals.
6. A return declaring income of Rs. 27,93,410 after claiming deduction under section 80-IC of Rs. 12,62,77,168 was e-filed by the assessee firm on 28.09.2012.
7. The A.O allowed exemption @25% for the period from 6<sup>th</sup> to 10<sup>th</sup> year as per section 80-IC.
8. Aggrieved by the order of the A.O, dt. 27.02.2015, the assessee preferred an appeal on 6.04.2015.
9. After having gone through the details of the stated case, the CIT(A) upheld the order of the A.O and dismissed the appeal of the assessee.
10. Being aggrieved the assessee filed further appeal before ITAT and the ITAT also dismissed the order of assessee.
11. Being dissatisfied with the order, the assessee further appealed under section 260(A) of the IT Act, 1961 before the High Court of Himachal Pradesh, Simla.

**Decision of the Case**

1. The H.C observes the following in the present case
  - a) The assessee carried on business as manufacturing concern.
  - b) The assessee established business in special category state i.e in Sikim, Himachal Pradesh, Uttaranchal & North Eastern State.
  - c) The assessee has started business on or after 1.04.2004 since the said act (Sec 80-IC(2)) was inserted by the Finance Act 2003 w.e.f 1.04.2004.
2. Under such situation u/s 80-IC (2) the assessee is entitled to avail 100% exemption of income from profit & gains for 1<sup>st</sup> 10 years from setting up of business. But under no circumstances the assessee is allowed further exemption facility u/s 80-IC(2).The court allowed the appeal of the assessee.

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[Expenditure incurred to Repair or Renovate existing Make-up Rooms are Revenue in Nature: ITAT](#)

**M/s. Maharashtra Film Stage Cultural Development Corporation Ltd. Vs. ITAT Mumbai**

**Case No. – 1268/MUM/2017**  
**Date – 10<sup>th</sup> October, 2018**

**Fact of the Case**

1. M/s. Maharashtra Film Stage Cultural Development Corporation Ltd. is the assessee here.
2. The assessee has incurred an expenses for repairing or renovating existing make-up rooms which have been shown as revenue expenditure.
3. The A.O has rejected the said allowance as because it is consisted of heavy repairs & which are not recurring in nature. So it may be treated as capital expenditure instead of revenue expenditure.
4. The assessee appealed to CIT(A) .But CIT(A) confirmed the action of A.O by observing that such activities have been incurred for up-gradation by renovating the existing rooms which have an enduring benefit.
5. Being aggrieved the assessee further appealed to ITAT.

**Decision of the Case**

1. The ITAT observed no new asset has come into existence. Only renovation & repair works have been done by doing removal of plaster, replacement of doors & windows ,water proofing treatment etc.
2. So it can be treated as revenue expenditure instead of capital expenditure. The ITAT passed the order in favour of assessee & rejected the action taken by CIT(A).

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

Date	Return Type
7 <sup>th</sup> November, 2018	Depositing TDS/TCS Liability under Income Tax Laws
13 <sup>th</sup> November, 2018	GSTR 6 – Details of ITC received and distributed by ISD
15 <sup>th</sup> November, 2018	GSTR 1 for July – Sept, 2018 (For turnover of less than Rs. 1.5 crore) (Only for registered persons of Kerala)
20 <sup>th</sup> November, 2018	GSTR 5 – Summary of outward taxable supplies and tax payable by Non Resident Taxable person.
20 <sup>th</sup> November, 2018	GSTR 5A - Summary of outward taxable supplies and tax payable by OIDAR
20 <sup>th</sup> November, 2018	GSTR 3B for the month of October, 2018
31 <sup>st</sup> December, 2018	Extension of Due date for GSTR-3B only for newly migrated taxpayers for months July 2017 to Nov 2018.
31 <sup>st</sup> 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 <sup>st</sup> 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 <sup>st</sup> March, 2019	Due date of TRAN-1 is extended for certain taxpayers who could not complete filing due to tech glitch.
31 <sup>st</sup> April, 2019	Due date of TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch.

## DIRECT TAX CALENDAR - NOVEMBER, 2018

### 07.11.2018

- Due date for deposit of Tax deducted/collected for the month of October, 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.

### 14.11.2018

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

### 15.11.2018

- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2018.
- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of October, 2018 has been paid without the production of a challan.

**30.11.2018**

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA and section 194-IB in the month of October, 2018
- Annual return of income for the assessment year 2018-19 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s).
- Audit report under section 44AB for the assessment year 2018-19 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E.
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.
- Report in Form No. 3CEAA by a constituent entity of an international group 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 2016-17.
- Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during 2017-18.
- Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2017-18) to units holders.
- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA.
- Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB.
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2017-18. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A.
- Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
- 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 November 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 November 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 has any international/specified domestic transaction].
- 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 November 30, 2018).
- 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 November 30, 2018).



## DIRECT TAX CALENDAR - DECEMBER, 2018

**07.12.2018**

- Due date for deposit of Tax deducted/collected for the month of November, 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

**15.12.2018**

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2018 has been paid without the production of a challan.
- Third installment of advance tax for the assessment year 2019-20.
- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of October, 2018.

**30.12.2018**

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of November, 2018.

## WEBINAR CALENDAR 1<sup>st</sup> To 15<sup>th</sup> NOVEMBER, 2018

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	14.11.2018 (Wednesday )	4:00 - 5:00 PM	Assessment & Export License	CMA S K Bhatt

**Please Note:** One CEP hour awarded for attending each webinar



## 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 3<sup>rd</sup> 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.

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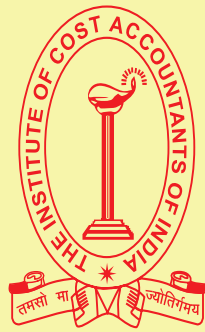
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