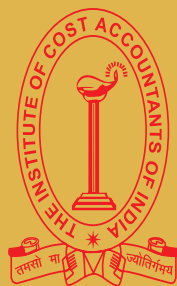


MARCH, 2019

TAX Bulletin



VOLUME - 36



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100

MISSION STATEMENT

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

VISION STATEMENT

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

Objectives of Taxation Committee:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stakeholders.

MARCH, 2019

TAX Bulletin



VOLUME - 36



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100



FROM THE DESK OF THE CHAIRMAN

Namaskar and Best wishes.

The Tax Research Department moving in line with the implementation and integration of GST has undertaken various activities for this fortnight.

Three seminars have been conducted:

- (i) One day Seminar at SCS College Puri on “Records, Books of Accounts & Compliance on GST Law”
- (ii) A Seminar on “Intricacies of Cost Audit and GST Audit” at Kolkata

The Seminars have been great learning and interactive sessions.

Two publications have also been released:

- (i) Handbook on GST in Education Sector
- (ii) Taxation on Co-operative Sector

MoU was also signed on 8th March, 2019 at Bangalore Chapter with 8 colleges and 2 universities to conduct Certificate Course on GST for students.

I congratulate Team – Tax Research and the eminent Resource Persons for their commitment and dedication. I would like to acknowledge the dedicated efforts of Tax Research Department for their commitment towards their work. I wish them all the Luck!!

Thank You.

A handwritten signature in blue ink, which appears to be 'Niranjan Mishra'.

CMA Niranjan Mishra
Chairman - Taxation Committee
18th March 2019

TAXATION COMMITTEE 2018 - 2019

CMA Amit Anand Apte	-	President
CMA Balwinder Singh	-	Vice President
CMA Niranjana Mishra	-	Chairman

MEMBERS

CMA Sanjay Gupta, IPP	CMA Manas Kumar Thakur
CMA P Raju Iyer	CMA Papa Rao Sunkara
CMA Dr. P V S Jaganmohan Rao	CMA Dr. Sanjay R Bhargave (Co-opted)
CMA Antaryami Acharya (Co-Opted)	CMA Waman Parkhi (Co-Opted)

SECRETARY

CMA Rajat Kumar Basu

ACKNOWLEDGEMENTS

CMA Mrityunjay Acharjee	Vice-President (Accounts, Finance & Taxation), Balmer Lawrie Ltd.
CMA Amit Sarker	Director Indirect Taxation, Deloitte Haskins & Sells
CMA Vishwanath Bhat	Practicing Cost & Management Accountant
CMA B Mallikarjuna Gupta	SME, Speaker, Author & Advisor on GST
CMA T K Jagannathan	Practicing Cost & Management Accountant
CMA Shiba Prasad Padhi	Practicing Cost & Management Accountant
CMA Arindam Goswami	Practicing Cost & Management Accountant
CMA Anil Sharma	Practicing Cost & Management Accountant
CMA T. K. Jagannathan	Practicing Cost & Management Accountant
Gadde Shareesh	CMA Final Student

TEAM - TAX RESEARCH DEPARTMENT

CMA Rajat Kumar Basu	-	Additional Director - Tax Research
CA Neelesh Jain	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
Ms. Mukulika Poddar	-	Officer - Tax Research
CMA Debasmita Jana	-	Associate - Tax Research
Ms. Debjani Mukherjee	-	Associate - Tax Research

SPECIAL ACKNOWLEDGEMENT

Mr. Dipayan Roy Chaudhuri	-	Graphics & Web Designer
---------------------------	---	-------------------------

CONTENTS

ARTICLES		
INDIRECT TAX		
01	GST ON WARRANTY SUPPLY	
	CMA T. K. Jaganathan	Page - 1
DIRECT TAX		
02	ANGEL TAX ON INDIAN START-UP'S	
	Gadde Shareesh	Page - 3
PROVISIONS OF GST EFFECTIVE FROM 1st APRIL 2019		
	TEAM TRD	Page - 5
TAX UPDATES, NOTIFICATIONS AND CIRCULARS		
	Indirect Tax	Page - 7
	Direct Tax	Page - 14
PRESS RELEASE		
	Indirect Tax	Page - 17
	Direct Tax	Page - 17
JUDGEMENTS		
	Indirect Tax	Page - 18
	Direct Tax	Page - 19
TAX COMPLIANCE CALENDAR AT A GLANCE		
	Indirect Tax	Page - 22
	Direct Tax	Page - 22
GLIMPSES OF ACTIVITIES OF TRD		
		Page - 24
BROCHURE - GST CERTIFICATE COURSE – 4th BATCH		
		Page - 26

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

Please send the articles to

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



GST ON WARRANTY SUPPLY

CMA T. K. Jaganathan

Practicing Cost & Management Accountant

A warranty is a type of guarantee that a manufacturer or similar party makes regarding the condition of its product. It also refers to the terms and situations in which repairs or exchanges will be made in the event that the product does not function as originally described or intended.

Extract from CBIC -GST SECTORAL SERIES IT/ITES

Question 20: What would be the tax liability on replacement of parts (no consideration is charged from a customer) under a warranty and whether the supplier is required to reverse the input tax credit?

Answer: As parts are provided to the customer without a consideration under warranty, no GST is chargeable on such replacement. The value of supply made earlier includes the charges to be incurred during the warranty period. Therefore, the supplier who has undertaken the warranty replacement is not required to reverse the input tax credit on the parts/components replaced.

Question 21: An Original Equipment Manufacturer (OEM) has an obligation to provide repair services to their customers in the warranty period. This activity is outsourced by OEM to 'D', who bills the OEM for the services he provides to the customer. What is the tax liability of 'D'?

Answer: 'D' is providing service to the OEM. GST is payable on the value of any supplies made by 'D' to OEM i.e. in respect of bills raised by 'D' on the OEM.

The above answers are implied from the Central Excise Act which is reproduced below:

Section 4 in the Central Excise Act, 1944

(d) "transaction value" means the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price,

any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods.]

However under the VAT laws in most of the cases it was decided that replacement of spares is also a sale during warranty period and tax was levied on warranty spares.

Valuation provisions under the GST Law:

Sec 15(2) The value of supply shall include—

- a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;
- b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
- d) interest or late fee or penalty for delayed payment of any consideration for any

- supply; and
- e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Inclusive part of transaction value as specified in Section 15 of CGST Act 2017 do not include the warranty in line with earlier transaction value as provided in Section 4 of Central Excise Act 1944.

Further, there is no provision in CGST Act 2017 of prescribing the procedure for supply of the goods on which tax is already paid and such value of subsequent supply if any to be made during warranty, and such supplies not been defined in coverage of transaction value as per Section 15 of CGST Act 2017.

Warranty period might be for more than one year, can be extended further upto 7 years for certain goods. Therefore, whether such free supplies made during warranty will attract tax or will be covered as already tax paid goods being covered under the price of originally supplied goods.

The general practice of the Corporates is to make provision for the warranty expenses as per the Company policy and debit the warranty expenses against the provisions made at the time of sending the warranty items. In most of the cases there is no one to one link with the warranty supplies to that of the original invoice, which further complicates the situation. In case of project supplies, even the short supplies and materials directly procured at project sites are treated as warranty supplies.

There is no specific provision under the GST law for not paying tax on supply of goods or services without consideration during warranty period. It is noticed that the officials of the Central and State Taxes are having different views on the applicability of GST on warranty supplies.

The GST council may consider the above facts and issue suitable clarification at the earliest in order to mitigate the litigation on the subject matter.



ANGEL TAX ON INDIAN START-UP'S

Gadde Shareesh
CMA Final Student

Introduction:

An Angel investor (also known as informal investor) is a prosperous high net worth individual who contributes capital for a business start-up, usually in return for equity shares. These Angel Investors use their personal expendable finance and experience to invest in the development of a small business, normally during start-up or early stage business. These investors can make funding on their own or as part of a group, usually led by a main angel investor. It is not necessarily required to make an investment into a company but they also can share their knowledge, experiences add value to their Start-up companies.

India has witnessed growth in start-ups for the last few years, and the government has created better environment through legal Measures. India's ranking in the World Bank's ease of doing business has gone up from 130 to 100 laying the foundations for a thriving start-up ecosystem¹. However, capital plays major role at the early stage of business start-ups. And angel investing was the trending investment source for Indian start-ups.

Concept of Angel tax was introduced by then finance minister in union budget 2012, to curb money laundering of funds in India economy. 'Angel Tax' refers to section 56 (2) (viib) of the Indian Income Tax Act, 1961, wherein the Income Tax Authorities are challenging additional taxes from Start-up Companies who have received financial support from Indian Angel Investors at a valuation higher than what can be ascertained for an early stage start-up venture.

Budget Memorandum 2012 proposed to insert a new clause in section 56(2) of Income Tax Act 1961,

¹ World Bank (2017). Retrieved from <https://www.worldbank.org/en/news/press-release/2017/10/31/india-jumps-doing-businessrankings-with-sustained-reform-focus>. Last accessed on 19th October 2018

which apply to a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares. In such a scenario if the consideration received for issue of shares exceeds the nominal value of such shares, the total consideration received for such shares as exceeds the fair market value of the shares shall be liable to tax under the head "Income from other sources".

How It Impact Start-ups:

Shares issued to the investor has been valued to decide whether the price exceeds the fair market value. The industry has necessitated that the discounted cash flow (DCF) method of evaluation be used to calculate angel tax instead of the net asset value (NAV) method. The valuation of a start-up business is usually based on a merchant negotiation between the company and the investor, and is an outcome of the company's projected earnings at that point in time. However, since Startup's drive in a highly ambivalent environment, many firms are not always able to perform as per their financial projection. Equally, some Startup's exceed the projection by a long mile if they are doing good.

Recent Government Measure to promote Start-up Businesses:

Department for Promotion of Industry and Internal Trade has issued notification dated 19th February 2019 amending the definition of Startup's and also provided certain relaxations for availing exemption from angel tax. Changes in the notification is as follows:

a) Start-up Definition: An entity can be considered as start-up if it satisfies below conditions:

- Turnover of start-up entity does not exceed hundred crores from the date of incorporation/registration.
- Start-up entity has to be incorporated as a Private Limited Company under companies Act 2013 or registered as partnership firm under Partnership Act 1932 or a limited liability Partnership (LLP) under LLP Act 2008 in India and continue for a period of Ten years.
- Entity should be able to generate employment opportunities or wealth creation through a business model with innovation, development or improvement of products as well of services.

b) Recognition process of Startup's:

- Entity has to make online application in the portal setup by the Department for Promotion of Industry and Internal Trade.
- Such application should consist, a copy of Incorporation/registration certificate of entity and write up about the nature of business by highlighting its working towards generating employment opportunities or wealth creation
- DPIIT may if it deems fit approve eligible entity as start-ups or rejects the application by providing reasons.

c) Section 80-IAC Certificate under Income-tax Act, 1961:

For the purpose of obtaining certificate under section 80-IAC of Income Tax Act 1961, being a private limited company or limited liability partnership which fulfils conditions specified under the said section has to make an application in Form-1 along with documents specified by DPIIT. Board may admit or reject the application based on documents and enquiries.

d) Exemption conditions for clause (viib) of sub-section (2) of section 56 of the Act:

A Start-up will be eligible under clause (ii) of the proviso to clause (viib) of sub-section (2) of section 56 of the Income Tax Act, 1961 and subsequent exemption from the provisions of that clause, if it satisfies the following conditions:

- Entity has been recognised by DPIIT or as per any earlier notification
- Paid up share capital and share premium of the start-up does not exceed twenty-five crore rupees
- It has not invested in building or land appurtenant thereto, being a residential house; loans and advances; capital contribution made to any other entity; shares and securities; a motor vehicle, aircraft, or any other mode of transport, on which actual cost doesn't exceeds ten lakh rupees; jewellery; other than that held by the Start-up as stock-in-trade in the ordinary course of business.

Conclusion:

India is the second largest start-up hub in world in terms of number of business promotion. While government aims to achieve Make in India concept, but start-up sector is facing tax scrutiny which is unnecessary and dangerous for the financial health of businesses. Since the introduction of Angel Tax, Startup's has impacted largely on Angel investments. Government can adopt other measures to curb money laundering like KYC and other documentary evidences other than burdening all start-ups businesses.

PROVISIONS OF GST EFFECTIVE FROM 1st APRIL 2019

TEAM TRD

Provisions Before 1st April 2019	Provisions After 1st April 2019
Threshold Limit for Registration in case of goods (allover India) <i>except persons engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad– Rs. 20 lakhs</i>	Threshold Limit for Registration in case of goods (allover India) <i>except persons engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad – Rs. 40 lakhs*</i>
Threshold Limit for Registration in case of Services <i>except persons engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad – Rs. 20 lakhs</i>	Threshold Limit for Registration in case of Services <i>except persons engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad– Rs. 20 lakhs</i>
Threshold Limit for Registration in case of Goods & Services <i>engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad – Rs. 10 lakhs</i>	Threshold Limit for Registration in case of Goods & Services <i>engaged in making Supplies in the state of Arunacahal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikim, Telengana, Tripura, Uttrakhanad – Rs. 10 lakhs</i>
Composition Scheme- ** <ul style="list-style-type: none"> ○ For Trader, Manufacturer – Rs. 1 Crore ○ For Restaurant Service Only – Rs. 1 Crore ○ Rate - For Trader, Manufacturer – 1% For Restaurant Service– 5% 	Composition Scheme- ** <ul style="list-style-type: none"> ○ For Trader, Manufacturer – Rs. 1.5 Crore ○ For Restaurant Service – Rs. 1.5 Crore ○ For Other Service Providers subject to threshold limit of turnover in the preceding Financial Year Rs. 50 lakhs – Rs. 1.5 Crore. ○ Rate - For Trader, Manufacturer – 1% For Restaurant Service – 5% For Other Service Providers whose turnover in the preceding Financial Year Rs. 50 lakhs – 3% CGST & 3% SGST
Supply with or without consideration – <i>treated as supply under GST</i>	<ul style="list-style-type: none"> ○ Supply with consideration – <i>treated as supply under GST</i> ○ Supply without consideration except activity under schedule I – <i>not treated as supply under GST</i>
TCS Provisions- Section 15(2) of CGST Act specifies that the value of supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, The UTGST Act, The GST Act if charged separately by the supplier. Example Gold Ornaments – Rs. 5,00,000 Add – TCS @ 1% – Rs. 5,000 Rs. 5,05,000 Add – GST @ 3% – Rs. 15,150 Rs. 5,20,150	TCS Provisions- For the purpose of determination of value of supply under GST, Tax collected at source under the provisions of Income Tax Act, 1961 would not be includible as it an interim levy not having character of Tax Example Gold Ornaments – Rs. 5,00,000 Add – TCS @ 1% – Rs. 5,000 Rs. 5,05,000 Add – GST @ 3% – Rs. 15,000 Rs. 5,15,000

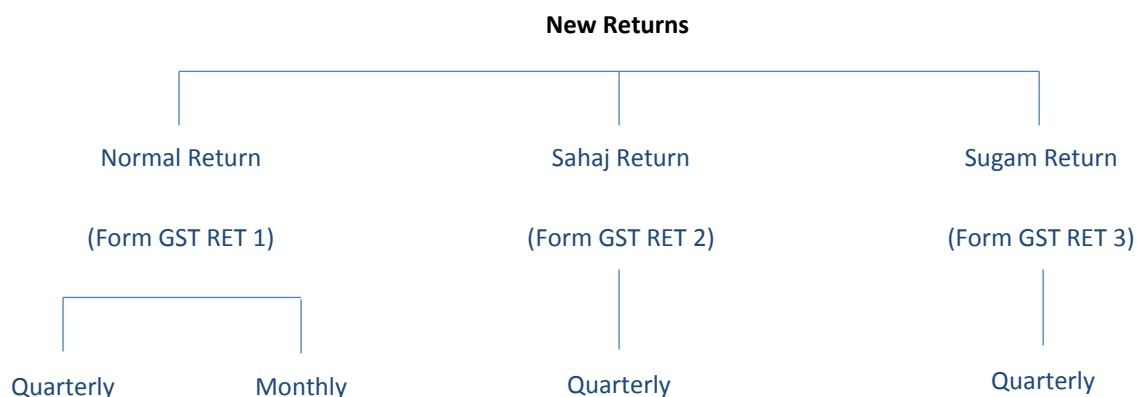
*** Threshold Limit for Registration in case of Goods- Rs. 40 lakhs is not applicable in following cases-**

- Persons required to take compulsory registration under section 24(Example – Online Sale , E-Commerce Operator)
- Persons engaged in supply of Ice Cream and other edible ice, whether or not containing cocoa, Pan Masala, Tobacco and manufactured tobacco substitutes.

**** Applicability of Composition Scheme-**

- Not engaged in making any supply which is not leviable to tax under the CGST Act.
- Not engaged in making any interstate outward supply.
- Neither a Casual Taxable Person nor a Non Resident Taxable Person
- Not engaged in making any supply through an e-commerce operator who is required to collect tax at source under section 52
- Shall not collect any tax from the recipient on supplies made by him nor shall be entitled to any credit of ITC
- Shall issue Bill of Supply instead of Tax Invoice
- The registered person under composition scheme shall mention the following words at the top of the bill of supply namely –**“Taxable Person paying tax in terms of Notification No. 2/2019 –Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies”** [Newly Notified]

Proposed New Return Formats



- If turnover up to Rs. 5 Crore in preceding Final Year , then Taxpayers can opt for submitting return quarterly using Form GST RET 1 or Form GST RET 2 or Form GST RET 3.
- Quarterly Return submission using Form GST RET 1- ITC on Missing Invoices **can** be availed.
- Quarterly Return submission using Form GST RET 2 & GST RET 3 - ITC on Missing Invoices **cannot** be availed.
- Quarterly Return submission using Form GST RET 3- Outward Supply under **B2C & B2B category and inward supplies attracting reverse charge** are to be informed in this return.
- Quarterly Return submission using Form GST RET 2- Outward Supply under **B2C category and inward supplies attracting reverse charge** are to be informed in this return.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GOODS AND SERVICES TAX

CENTRAL TAX

Notification No. – 10/2019

Date – 7.03.2019

To give exemption from registration for any person engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs 40 lakhs.

The Central Government has specified the following category of persons who will be exempted from obtaining registration.

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed 40lakh rupees, except, -

- ✓ persons required to take compulsory registration under section 24 of the said Act;
- ✓ persons engaged in making supplies of the goods, the description of which is specified in below the Table
- ✓ persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand;
- ✓ persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

Tariff item, sub-heading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2106 90 20	Pan Masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Notification No. – 11/2019

Date – 7.03.2019

Seeks to prescribe the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover upto Rs. 1.5 crores for the months of April, May and June, 2019.

The Central Government has notified the due date for furnishing GSTR-1 for the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year.

Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
April –June, 2019	31st July, 2019

Notification No. – 12/2019

Date – 7.03.2019

Seeks to prescribe the due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs. 1.5 crores for the months of April, May and June, 2019.

CBIC has extended the time limit for furnishing the details of outward supplies in FORM GSTR-1 till 11day of the month succeeding such month for the registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for the period of April, 2019 to June, 2019 .

Notification No. – 13/2019

Date – 7.03.2019

Seeks to prescribe the due dates for furnishing of FORM GSTR-3B for the months of April, May and June, 2019.

CBIC has specified the due date (on or before 20th day of the month succeeding such month) for filling GSTR-3B for the period from April, 2019 to June, 2019.

Payment of taxes for discharge of tax liability as per FORM GSTR-3B.– Every registered person furnishing the return in FORM GSTR-3B shall discharge his liability towards tax, interest, penalty, fees or any other amount payable by

debiting the electronic cash ledger or electronic credit ledger, not later than the last date of furnishing return as mentioned above.

Notification No. – 14/2019

Date – 7.03.2019

Seeks to supersede notification No. 08/2017 - Central Tax dated 27.06.2017 in order to extend the limit of threshold of aggregate turnover for availing Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores.

The Central Government has specified that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed 1.50 crore, may opt to pay, an amount of tax as prescribed under rule 7 of the Central Goods and Services Tax Rules, 2017:

Provided that the said aggregate turnover in the preceding financial year shall be 75 lakh rupees in the case of an eligible registered person, registered under section 25 of the said Act, in any of the following States-

- i. Arunachal Pradesh,
- ii. Manipur,
- iii. Meghalaya,
- iv. Mizoram,
- v. Nagaland,
- vi. Sikkim,
- vii. Tripura,
- viii. Uttarakhand

Provided further that the following registered person shall not be eligible to opt for composition levy if such person is a manufacturer of the goods-

Tariff item, subheading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2106 90 20	Pan Masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes.

CENTRAL TAX RATE

Notification No. – 2/2019

Date – 7.03.2019

To give composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs 50 lakhs

The Central Government has notified the rate on the intra-State supply of goods or services or both as follows-

Description of supply	Rate (per cent.)	Conditions
First supplies of goods or services or both upto an aggregate turnover of 50 lakh rupees made on or after the 1st day of April in any financial year, by a registered person.	3%	1. Supplies are made by a registered person, - <ol style="list-style-type: none"> i. whose aggregate turnover in the preceding financial year was fifty lakh rupees or below; ii. who is not eligible to pay tax under sub-section (1) of section 10 of the said Act; iii. who is not engaged in making any supply which is not leviable to tax under the said Act; iv. who is not engaged in making any inter-State outward supply; v. who is neither a casual taxable person nor a non-resident taxable person; vi. who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and vii. who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading

		<p>or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure.</p> <p>2. Where more than one registered persons are having the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), central tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification.</p> <p>3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</p> <p>4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.</p> <p>5. The registered person shall mention the following words at the top of the bill of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.</p> <p>6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act.</p> <p>7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.</p> <p>Explanation. - For the purposes of this notification, the expression "first supplies of goods or services or both" shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.</p>
--	--	--

Tariff item, subheading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2106 90 20	Pan Masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes.

In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of 3% under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

UNION TERRITORY TAX

Notification No. – 2/2019

Date – 7.03.2019

To give exemption from registration for any person engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs 40 lakhs

The Central Government has specified the following category of persons, who would be exempted from obtaining registration –

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed 40 lakh rupees, except, -

- a) persons required to take compulsory registration under section 24 of the said Act;
- b) persons engaged in making supplies of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item,

sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table;

- c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- d) persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

Tariff item, subheading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2106 90 20	Pan Masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes

UNION TERRITORY TAX RATE

Notification No. – 2/2019

Date – 7.03.2019

To give composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs 50 lakhs

The Central Government has notified the Union Territory Tax Rate, on the intra-State supply of goods or services or both.

Description of supply	Rate (per cent.)	Conditions
First supplies of goods or services or both upto an aggregate turnover of 50 lakh rupees made on or after the 1st day of April in any financial year, by a registered person.	3%	1. Supplies are made by a registered person, - <ol style="list-style-type: none">i. whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;ii. who is not eligible to pay tax under sub-section (1) of section 10 of the said Act;iii. who is not engaged in making any supply which is not leviable to tax under the said Act;iv. who is not engaged in making any inter-State outward supply;v. who is neither a casual taxable person nor a nonresident taxable person;vi. who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and

	<p>vii. who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure.</p> <p>2. Where more than one registered persons are having the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), union territory tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification.</p> <p>3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</p> <p>4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.</p> <p>5. The registered person shall mention the following words at the top of the bill of supply, namely: - ‘taxable person paying tax in terms of notification No. 2/2019- Union Territory Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies’.</p> <p>6. The registered person opting to pay union territory tax at the rate of three percent under this notification shall be liable to pay union territory tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under subsection (1) of section 9 or under section 11 of said Act.</p> <p>7. The registered person opting to pay union territory tax at the rate of three percent under this notification shall be liable to pay union territory tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.</p> <p>Explanation.- For the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.</p>
--	--

Tariff item, subheading, heading or Chapter	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2106 90 20	Pan Masala

In computing aggregate turnover in order to determine eligibility of a registered person to pay union territory tax at the rate of 3% under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

CIRCULARS - CGST

Circular No. – 92/2019

Date – 7.03.2019

Circular clarifying various doubts related to treatment of sales promotion scheme under GST

There are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST.

In this regard, some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier are explained hereunder.

Free samples and gifts:

The goods or services or both which are supplied at free of cost (without any consideration) shall not be treated as „supply“ under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, the samples which are supplied free of cost, without any consideration, do not qualify as „supply“ under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the

provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

Buy one get one free offer:

Sometimes, companies announce offers like ‘Buy One, Get One free’. This is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

Discounts including ‘Buy more, save more’ offers

Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). Such discounts are shown on the invoice itself.

Some suppliers also offer periodic / year ending discounts to their stockists, etc. Such discounts are passed on by the supplier through credit notes.

It is clarified that discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more“ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

Secondary Discounts

These are the discounts which are not known at the time of supply or are offered after the supply is already over.

Secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

For more details, please follow -

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-92.pdf;jsessionid=B40E2D645D147F9FD387B12292D6E831>

CUSTOMS - TARIFF

Notification No.05/2019 - -Customs Date – 16.02.2019

Seeks to insert tariff item 9806 00 00 in chapter 98 of the First schedule to Customs tariff act, 1975 to impose basic customs duty of 200% on all goods originating in or exported from Pakistan

The import duty leviable on all goods originating in or exported from the Islamic Republic of Pakistan, falling under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) should be increased and that circumstances exist which render it necessary to take immediate action.

The Central Government has directed that the First Schedule to the Customs Tariff Act, shall be amended as below-

9806 00 00	All goods originating in or exported from the Islamic Republic of Pakistan	-	200 %	-
------------	--	---	-------	---

Notification No.06/2019 - -Customs Date – 16.02.2019

Seeks to further amend notification No. 50/2017- customs dated 30th June 2017 to postpone the implementation of increased customs duty on specified imports originating in USA from 2nd March, 2019 to 1st April, 2019

CBIC has made further amendments in the Notification No. 50/2017-Customs, dated the 30th June, 2017.

Amendments - In the said notification, in the third proviso for the words and figures “2nd day of March, 2019”, the words and figures “1st day of April, 2019” shall be substituted.

CUSTOMS - ANTI DUMPING DUTY

Notification No.12/2019 - Customs (ADD) Date – 26.02.2019

Seeks to impose definitive anti-dumping duty on "Textured Tempered Coated and Uncoated Glass"

In case of “Textured Tempered Coated and Uncoated Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated” falling under tariff item 7007 19 00 or 7007 21 90 of the First Schedule to the Customs Tariff Act, 1975, originating in, or exported from Malaysia and imported into India, the Designated Authority has come to the conclusion that

- the subject goods has been exported to India from Malaysia below their normal values
- the domestic industry has suffered material injury
- that the material injury has been caused by the dumped imports of subject goods from the Malaysia during the Period of Investigation

So the Designated Authority has recommended imposition of definitive anti-dumping duty on imports in order to remove injury to the domestic industry for a period of 5 years from the date of publication of this notification in the Official Gazette.

For more details, please follow -
<http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd12-2019.pdf;jsessionid=E6AE874AB49476FA70424B7B2B1C7982>

**Notification No.13/2019 - Customs (ADD)
Date – 14.03.2019**

Seeks to prescribe provisional assessment for 'Saturated Fatty Alcohols' when originating in or exported from subject countries by M/s PT. Energi Sejahtera Mas (producer) Indonesia through M/s Sinarmas Cespa Pte Ltd (exporter/trader) Singapore and imported into India.

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

Amendments - In the said notification, in the third proviso for the words and figures “2nd day of March, 2019”, the words and figures “1st day of April, 2019” shall be substituted.

CIRCULARS – CUSTOMS

**Circular No. 10/ 2019-Customs
Date – 12.03.2019**

Scheme for Rebate of State and Central taxes and Levies on export of garments and made-ups (RoSCTL)

Ministry of Textiles (MoT) has notified a new scheme called Scheme for Rebate of State and Central Taxes and Levies on export of garments and made-ups (hereinafter referred to as RoSCTL) vide Notification No. 14/26/2016-IT (Vol II) dated 7.3.2019.

The new scheme has come into effect from 7.3.2019. Accordingly, existing Rebate of State Levies (RoSL) scheme for garments and made-ups has been discontinued w.e.f. 7.3.2019.

Rates of rebate under RoSCTL have been notified by MoT vide notification No. 14/26/2016-IT (Vol II) dated 8.3.2019.

In view of the above, claims under the erstwhile RoSL scheme are to be processed for shipping

bills with Let Export Order (LEO) date upto 6.3.2019 only

It is to point out that under the RoSCTL, the benefit to exporters shall be given by DGFT in form of Merchandise Exports from India Scheme (MEIS) type duty credit scrips. Detailed procedure for claiming benefit under the RoSCTL, issuance of scrips and their usage is being worked out. Till finalisation of such details, in the transition period, it has been decided that claims filed under the existing scheme codes for the erstwhile RoSL scheme will be treated as claims filed under RoSCTL scheme.

DIRECT TAX

**Notification No.13/2019
Date – 05.03.2019**

Exception notified for the purposes of clause (ii) of the proviso to section 56(2)(viib) in supersession of Notification No. 24/2018 dated 24.05.2018

In exercise of the powers conferred by clause (ii) of the proviso to clause (viib) of sub-section (2) of section 56 of the Income-tax Act, 1961 (43 of 1961) and in supersession of the notification of Government of India in the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes published in the Gazettee of India, Extraordinary, Part-II, Section (3), Sub-section (ii) vide number S.O. 2088(E) dated 24th May, 2018, except as respect things done or omitted to be done before such supersession, the Central Government, hereby notifies that the provisions of clause (viib) of sub-section (2) of section 56 of the said Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from a person, being a resident, by a company which fulfils the conditions specified in para 4 of the notification number G.S.R. 127(E), dated the 19th February, 2019 issued by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade and published in the Gazette of India, Extraordinary, Part-II, section 3, Sub-Section (i) on 19th February, 2019 and files the declaration referred to in para 5 of the said notification of the Department for Promotion of Industry and Internal Trade.

Notification No.14/2019

Date – 05.03.2019

M/s Agricultural Development Trust, Baramati, Pune ('ADT') (PAN:- AAATB7892F) notified for the purposes of section 35(1)(ii) from AY 2018-19 onwards subject to specified conditions

On consideration of application of M/s Agricultural Development Trust, Baramati, Pune ('ADT') (PAN:- AAATB7892F) dated 10.03.2018 for approval under section 35(1)(ii) of Income Tax Act, 1961 ('said Act') wherein approval for the following three units under its aegis namely 'Shardabai Pawar Mahila Arts, Commerce and Science College, College of Agriculture and Allied Sciences & Krishi Vigyan Kendra, Baramati' has been sought in the category of 'University, College or other Institution', it is hereby notified for general information that 'the said three units under the aegis of 'Agricultural Development Trust, Baramati, Pune' have been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the said Act, read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2018-2019 onwards in the category of 'University, College or other Institution', engaged in research activities, subject to the following conditions, namely:-

- i. The sums paid to approved units of ADT shall be used to undertake scientific research
- ii. approved units of ADT shall carry out scientific research through its faculty members or enrolled students;
- iii. Approved units of ADT shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;
- iv. Approved units of ADT shall maintain a separate statement of donations

received and amounts applied for scientific research, such donations shall be used exclusively for core scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above. (v) Approved units of ADT shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing-

- a detailed note on the research work undertaken by it during the previous year;
- a summary of research articles published in national or international journals during the year;
- any patent or other similar rights applied for or registered during the year;
- programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.

2. The Central Government shall withdraw the approval if the approved organization:-

- a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

Notification No.15/2019

Date – 08.03.2019

Specified income of M/s Elbit Systems Limited exempted by the Central Government in exercise of powers conferred under section 10(6C)

Central Government has specified that any income arising to the foreign company namely, M/s Elbit Systems Limited, Corporate Headquarters, Advanced Technology Center, P.O.B. 539, Haifa 31053, Israel, by way of royalty or fees for technical services received in pursuance of the agreement entered into between M/s Elbit Systems Limited and Ministry of Defence, Government of India vide contract no. AIRHQ/S96344/1/ASR signed on the 30th January, 2017 to an extent of USD 30,786,693 shall not be included in computing the total income of the said foreign company.

Notification No.16/2019

Date – 08.03.2019

Increase in exemption limit under section 10(10)(iii) in respect of Gratuity to Rs20 lakhs

Central Government has specified 20 lakh rupees as the limit for the purposes regard to the maximum amount of any gratuity payable to employees who retire or become incapacitated prior to such retirement or die on or after the 29th day of March, 2018 or whose employment is terminated on or after the said date.

Notification No.17/2019

Date – 11.03.2019

M/s Institute of Nano Science and Technology, Mohali (PAN:- AAAAI4829E) notified for the purposes of section 35(1)(ii) from AY 2018-19 onwards subject to specified conditions

M/S Institute of Nano Science & Technology, Mohali has been approved by the Central Government from the assessment year 2018-2019 onwards in the category of “Scientific Research Association” subject to certain conditions.

For more details, please follow -

https://www.incometaxindia.gov.in/communications/notification/notification_17_2019.pdf

Notification No.18/2019

Date – 13.03.2019

M/s Indian Institute of Science Education and Research, Bhopal (PAN:- AAAAI2511F) notified for the purposes of section 35(1)(ii) from AY 2018-19 onwards subject to specified conditions

M/S Indian Institute of Science Education & Research, Bhopal has been approved by the Central Government from the assessment year 2018-2019 onwards in the category of “University, College or other institution” engaged in research activities subject to certain conditions.

For more details, please follow –

https://www.incometaxindia.gov.in/communications/notification/notification_18_2019.pdf

PRESS RELEASE

INDIRECT TAX

Implementation of various decisions taken by the GST Council for the MSME sector

Date – 07.03.2019

The GST Council in its 32nd meeting held on 10th January, 2019, inter-alia, had taken following decisions to be effective from 01.04.19:

Higher exemption threshold limit for supplier of goods: There would be two threshold limits for exemption from registration and payment of GST for the suppliers of goods i.e. Rs 40 lakhs and Rs 20 lakhs. States would have an option to decide about one of the limits. The threshold for registration for service providers would continue to be Rs 20 lakhs and in case of Special category States Rs 10 lakhs.

Composition scheme for services and mixed suppliers:

A composition scheme shall be made available for suppliers of services (or mixed suppliers) with a tax rate of 6% (3% CGST + 3% SGST) having an annual turnover in preceding financial year upto Rs 50 lakhs.

Increase in turnover limit for the existing composition scheme:

The limit of annual turnover in the preceding financial year for availing composition scheme for goods shall be increased to Rs 1.5 crore. Special category States would decide about the composition limit in their respective States.

The following notifications have been issued to implement the above decisions:

Notification No. 10/2019 – Central Tax, dated the 7th of March, 2019 for higher exemption threshold limit for supplier of goods;

Notification No. 02/2019 – Central Tax (Rate), dated the 7th of March, 2019 for Composition scheme for services and mixed suppliers, which would be optional to the taxpayers;

Notification No. 14/2019 – Central Tax, dated the 7th of March, 2019 for increase in turnover limit in case of existing composition scheme.

These notifications shall come into effect from the 1st of April, 2019.

DIRECT TAX

SIGNING OF BILATERAL AGREEMENT FOR EXCHANGE OF CBC REPORTS BETWEEN INDIA AND THE USA

Date – 15.03.2019

Sub-section (4) of section 286 of the Income-tax Act, 1961 requires that a constituent entity of an international group, resident in India, other than a parent entity or an alternate reporting entity of an international group, resident in India, shall furnish the Country-by-Country (CbC) Report in respect of the said international group for a reporting accounting year within the period as may be prescribed, if the parent entity of the said international group is resident of a country or territory,—

- where the parent entity is not obligated to file the CbC Report
- with which India does not have an agreement providing for exchange of the CbC Report; or
- where there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity.

Vide Notification in GSR 1217 (E) dated 18th December, 2018 with effect from 18th December, 2018, amendments to the Income-tax Rules, 1962 (the “Rules”) have been carried out to provide that the period for furnishing of the CbC report (local filing) shall be twelve months from the end of the reporting accounting year.

Further, vide Circular No.9/2018, dated 26th December, 2018, CBDT as a one-time measure, in exercise of powers conferred under section 119 of the Act, extended the period for furnishing of the CbC Report (local filing) in respect of reporting accounting years ending on or before 28th February, 2018 up to 31st March, 2019.

The absence of an agreement between India and USA till now entailed a possibility of local filing of CbC Reports in India. However, a Bilateral Competent Authority Arrangement, along with an underlying Inter-Governmental Agreement, for exchange of CbC Reports between India and the USA has now been finalized and will be signed on or before 31st March, 2019. This would enable both the countries to exchange CbC Reports filed by the ultimate parent entities of International Groups in the respective jurisdictions, pertaining to the financial years commencing on or after 1st January, 2016. As a result, Indian constituent entities of international groups headquartered in USA, who have already filed CbC Reports in the USA, would not be required to do local filing of the CbC Reports of their international groups in India.

JUDGEMENTS

INDIRECT TAX

Company Director's Bank A/c can't be attached for Recovery of GST
Gujarat High Court
M/S H.M Industrial Pvt. Ltd. vs. The Commissioner of Central Excise & CGST
Case no. – 1160 of 2019
Date – 07.02.2019

Fact of the Case

- M/S H.M Industrial Pvt. Ltd. Is the petitioner in the present case.
- The assessing company is failed to pay the taxes & penalty to the govt.
- The Revenue Authority (GST Dept.) attached bank account of director to recover the taxes & penalty of the company.
- The petitioner appealed to the Gujarat High Court for solving the above problem.

Decision of the Case

- Under section 83 of the GST Act, any property including bank account belonging to the taxable person may be attached provisionally if circumstances therein are satisfied.
- In the present case M/S H.M Industrial Pvt. Ltd. is the taxable person and is registered under GST Act.
- Under the circumstances, if at all, the provisions of section 83 of the CGST Act could have been invoked against the petitioner herein, however, under no circumstances, the same could have been invoked against the directors of the petitioner-company.

If the taxable amount and penalty cannot be recovered from a private company in respect of supply of goods or services. Moreover, even if such amount cannot be recovered from the private company, the directors of the company do not ipso facto become liable to pay such amount and it is only if the director fails to prove that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Refund Claims must be sanctioned in Cash after GST Rollout: CESTAT
M/S Great India Steel Fabricators vs. C.C.E & S.T Panchkula
Case No. – E/60833,60836/2018
Date – 14.02.2019

Fact of the Case

- In the present case the appellant is the refund claimer of unutilized Cenvat credit amount.
- Under section 5 of Cenvat Credit rule 2004 on account of export of goods, the refund claims partly allowed in cash & partly credited in Cenvat Credit Account.
- Before the Authorities [The Customs, Excise and Service Tax Appellate Tribunal (CESTAT)] the appellants contended that after the introduction of GST Act 2017. All refund claims are to be sanctioned in cash.

Decision of the Case

- After having gone through the details of contention of the appellants, the Tribunal directs the authorities to sanction all the refund claims in cash.
- The Tribunal further instructs that no authority can be allowed to sanction refund claims through Cenvat Credit Account.

GST: NAA finds Abbott Healthcare guilty of Profiteering Rs 96.59 lakh
M/S Abbott Healthcare PVT. LTD. VS. Director General of Anti Profiteering
Case No. – 15/2019
Date – 05.03.2019

Fact of the Case

- In the present situation a Mumbai based company is an alleged company.
- A complaint has been lodged against the alleged company that after implementation of GST the tax rate has been reduced from 30.06% to 28% & later on from 28% to 18% , but the company did not reduce the selling price of the product.

- Furthermore, the company increased the base price of the product during the period from Rs. 202.06 to Rs. 230.90.

Decision of the Case

- After the investigation, the Directorate General of Anti Profiteering had come to a conclusion the company had not passed on the GST rate cut benefit while selling the product.
- Thus the total amount the benefit of which was denied to the recipients by Respondent No 1 (Abbott Healthcare Pvt Ltd) or the profiteered amount during the period w.e.f July 1, 2017 to July 31, 2018, comes to Rs 96,59,716.26," the National Anti-Profiteering Authority (NAA) said in its order.
- The NAA directed the company to deposit the profiteered amount to the Consumer Welfare Fund of the Centre and states, along with 18 percent interest.

**NAA confirms Anti-Profiteering Charges against Haryana Realtor Firm M/S S3 INFRA REALITY PVT. LTD. VS. Director General of Anti Profiteering
CASE NO. -12/2019
DATE -27.02.2019**

Fact of the Case

- In the last month, GST Council cut the GST rates for regular under-construction houses to 5% from 12% and to 1% from 8% for affordable housing projects.
- The reducing rate is accompanied with a denial of ITC & the cost will be born by developers.
- In connection with the reduction in rate, a harayana based developer guilty of profiteering Rs. 8.3 crore.
- The Delhi High Court stayed the order in November admitting a petition challenging the grounds of the constitutional validity of the mechanism for determining the quantum of profiteering.

Decision of the Case

- The authority said that the builder had already started disbursing the

profiteered amount as calculated by its investigating arm, directorate general of anti-profiteering (DGAP).

- The order said that it is evident that the respondent- Company has denied the benefit of input tax credit to the buyers of the flats being constructed by him in contravention of anti-profiteering provision under GST Act.
- The firm has realised more price from the buyers than it was entitled to collect and has also compelled them to pay higher GST, the order said.

DIRECT TAX

**ITAT confirms Additions against Magician Gopinath Muthukad . ITAT Cochin
Prof. Gopinath Muthukad vs. INCOME TAX OFFICER, Trivandrum
Case No. – 349/Coch/2009
Date – 1.03.2019**

Fact of the Case

- The Assessee is a professional person and earns income from India & Outside.
- The assessment was completed u/s 143(3) disallowing the claim for certain expenditure raised by the assessee.
- On appeal, the CIT (A) held that the deduction can be claimed on the gross receipts and expenditure need not be reduced from the foreign exchange brought into India.

Decision of the Case

- The tribunal noted that there is no justification for treating the whole gross receipts of foreign income instead of gross total income earned from foreign sources so as to grant deduction u/s. 80 RR of the Act.
- In the opinion of the Tribunal, the foreign income represented net income received and deposited into Bank account and it is not gross foreign receipts.
- The ITAT has held that the deduction under section 80 RR was allowable on the net income received and deposited into Bank account by the assessee in convertible foreign exchange.

- Under section 80RR, amount received in foreign currency and brought to India should qualify for deduction.
- According to the CIT (A), Section 80 AB only says about the nature of income that should be considered and not the quantum of income that is to be borne in mind to claim deduction under Chapter VIA of the Act.

Redemption Fine not allowable as Business

Expenditure:

Bombay High Court

Sushil Gupta vs. Principal Commissioner of Income Tax

Case No. – 51 of 2016

Date – 22.02.2019

Fact of the Case

- The assessee, Sushil Gupta was using import license of M/s. Rajnikant Bros. which is an export house.
- For using the license, the assessee would pay service charges equivalent to 25% of CIF value of the goods.
- The assessee contended that he had merely acted as an agent in the transaction. It was pointed out that upon confiscation of the goods, redemption fine and penalty were imposed by the Collector of Customs, Madras on M/s. Rajnikant Bros for which, the assessee claimed deduction.
- The Tribunal, on second appeal, reduced the redemption fine to Rs. 75 Lacs and deleted personal penalty. And held that the redemption fine of Rs. 75,00,000/- is allowable as business expenditure under Section 37 of the Income Tax Act, 1961.

Decision of the Case

- The Division Bench of the Bombay High Court held that the Tribunal decision was without proper justification or detailed examination of material on record.
- The Import License holder M/S Rajnikant Brothers stated before the Assessing Officer through his representative that the assessee M.P. Gupta paid redemption fine of Rs. 75 lacs to the Madras Custom House. All transactions were made by him and he was responsible for the fine.

- He stated clearly that as per the agreement, M/s. Rajnikant Brothers were only entitled to the service charges.
- M/s. Rajnikant Brothers merely received an agreed commission.
- The assessee cannot disassociate or divest himself from the irregularities or illegalities committed in the process of importing the goods. Thus, the penalty was for the infraction of law committed by the assessee.
- A division bench of the Bombay High Court has held that the redemption fine paid to the customs department for violation of law cannot be allowed as business expenditure under Section 37 of the Income Tax Act, 1961.

Roaming Charges paid by Bharti Airtel to Other Telecom Companies not attract TDS: ITAT

M/S Bharti Airtel Ltd. vs. ACIT, Ahmedabad

Case No.-2196/ahd/2016

Date – 28.02.2019

Fact of the Case

- In the present situation bharti airtel is the appellant who is running business of telecom operations and providing telecom services.
- The Assessing Officer held that the payment by the company to the other telecom company for roaming charges should have been subjected to deduction under section 194J and 194C of the Act.
- The Officer, therefore, treated the assessee as “assessee in default” for not deducting TDS.
- As per Tribunal decisions it was consistently held that there is no manual or human intervention involved in the process of interconnection charges upon considering the technical expert opinion and their cross examination.
- So interconnection charges paid by the appellant to other telecom operators are not in the nature of fee for technical services and therefore there is no liability to deduct tax.

Decision of the Case

- The Tribunal held that “the order passed by the Learned CIT (A) that all the

judgments as discussed hereinabove were considered by the Learned CIT(A) while allowing the claim of the applicant in deleting the demand .

- Roaming charges paid by the appellant to other telecom companies are not covered under 'fee for technical service' and such payments are out of the purview of TDS provision of 194J of the Act.
- The Income Tax Appellate Tribunal (ITAT), Ahmedabad bench has held that the roaming charges paid by the Bharati Airtel to other telecom companies does not attract TDS under Section 194J of the Income Tax Act, 1961.

**ITAT deletes Addition for Cash Payment as
Capitation
Fee for MBBS Admission
Sudarshan Kumar Jain vs. DCIT, New Delhi
Case No. – 5504/Del/2018
Date – 28.02.2019**

Fact of the Case

- Here the assessee is a doctor by profession.
- The assessee made cash payments of Rs.21,01,000/- as donation/capitation fee over and above the regular course fee to Santosh Medical College, Ghaziabad for admission of his son.
- Before the authorities the son of the assessee stated that he and his wife are MBBS Doctors and they are working in a reputed hospital for last 12 years.

Decision of the Case

The Tribunal observed the followings-

- The son of Sudarshan Kumar Jain (assessee) is doctor and the son inlaw of the assessee is also doctor. Son & Son in law of the assessee are servicing in a reputed hospital for 12 years.
- So naturally the son of the assessee is capable to pay capitation fees for higher studies.
- ITAT of Delhi Bench has decided the addition made in respect of cash payment as capitation fee by the assessee

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Date	Return Type
20th March 2019	GSTR 3B for the month of February 2019
20th March 2019	GSTR-5-Monthly - Summary of outward taxable supplies and tax payable by Non Resident Taxable person
20th March 2019	GSTR 5A-Monthly - Summary of outward taxable supplies and tax payable by OIDAR.
31st March, 2019	Due date of TRAN-1 is extended for certain taxpayers who could not complete filing due to tech glitch.
31st April, 2019	Due date of TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch.
30th April, 2019	GSTR-1- Quarterly return for registered persons with aggregate turnover up to Rs. 1.50 Crores

DIRECT TAX CALENDAR - MARCH, 2019

02.03.2019

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of January, 2019

07.03.2019

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

15.03.2019

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2019 has been paid without the production of a Challan
- Fourth instalment of advance tax for the assessment year 2019-20
- Due date for payment of whole amount of advance tax in respect of assessment year 2019-20 for assessee covered under presumptive scheme of section 44AD/ 44ADA

17.03.2019

- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of January, 2019

30.03.2019

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of February, 2019

31.03.2019

- Due date for linking of Aadhaar number with PAN
- Country-By-Country Report in Form No. 3CEAD for the previous year 2017-18 by a parent entity or the alternate reporting entity, resident in India, in respect of the international group of which it is a constituent of such group
- Country-By-Country Report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is April 1, 2017 to March 31, 2018) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report u/s 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.

DIRECT TAX CALENDAR - APRIL, 2019**07.04.2019**

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

14.04.2019

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA & 194-IB in the month of February, 2019

15.04.2019

- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2019
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of March, 2019

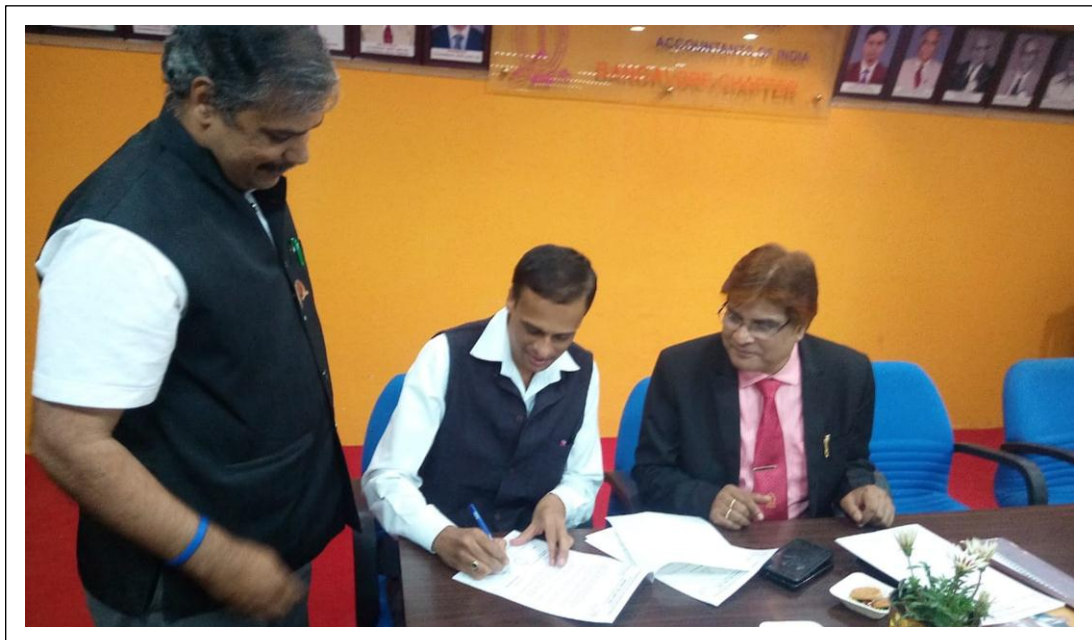
30.04.2019

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2019 has been paid without the production of a challan
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA & 194-IB in the month of March, 2019
- Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2019.
- Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2018 to March 31, 2019.
- Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2019.
- Due date for deposit of TDS for the period January 2019 to March 2019 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.

GLIMPSES OF ACTIVITIES OF TRD



One day Seminar at SCS College Puri on "Records, Books of Accounts & Compliance on GST Law" held on 11.03.2019



Signing of MoU with colleges for Certificate Course on GST at Bangalore on 08.03.2019



Releasing of book on 'Taxation Publications' and 'Revised Chapters Advisory 2019' during the National Regional Council & Chapters Meet, 2019 on 16th & 17th February, 2019 at Mysore



Lighting of the lamp ceremony at the seminar "Intricacies of Cost Audit and GST Audit" at Kolkata on 14.03.2019

GST CERTIFICATE COURSE – 4th BATCH

Course Eligibility

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

Course Duration, Fees, Examination and other Modalities

Details	Classroom Learning/Offline Mode	Online Classes
Course Duration	72 Hours	72 Hours
Classes	Live classes on Saturday - 2 Hrs & Sunday – 4 Hrs	Internet Connection is required and classes can be attended from your place.
Assessment:	Online mode	Online mode
Course Fee:	₹10,000 + GST (20% Discount for CMAs and Final pursuing Students of CMA)	₹10,000 + GST (20% Discount for CMAs and Final pursuing Students of CMA)
Examination Fee	₹1000 + GST	₹1000 + GST
Award of Certificate	Candidates with at least 70% attendance in the classes and also passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute	No attendance required Passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute
Date of Registration	15 th Feb 2019 – 31 st March 2019	15 th Feb 2019 – 31 st March 2019
Study Materials & Mock test paper to be provided to all participants Experienced faculties from Industry and practice		

Places

Locations	Classroom Learning	Online Classes
North	<ul style="list-style-type: none"> • Delhi 	Anywhere in India
South	<ul style="list-style-type: none"> • Chennai • Bangalore • Hyderabad 	
East	<ul style="list-style-type: none"> • Kolkata 	
West	<ul style="list-style-type: none"> • Mumbai • Pune • Ahmedabad • Bharuch 	

Course Contents

1. Constitutional Background of GST, Concepts of GST & Definitions in GST.
2. Taxable event, Time of Supply and Place of Supply, Composite & mixed supply, nontaxable supply, exempt supply, works contract, exempted supply.
3. Classification, HSN, SAC
4. Valuation under GST, Valuation rule
5. Input Tax Credit
6. Basic Procedures- Registration, Invoice, Bill of supply, E way Bills etc.

7. Records and Returns
8. Zero Rated Supplies, Imports and Exports
9. Payment and Refunds
10. Assessment
11. Audit
12. Demands
13. Adjudication and appeal
14. Penalties and Prosecutions
15. Advance Ruling
16. Job Work
17. Anti-profiteering
18. Applicability of TDS and TCS under GST and Filing of Return
19. Miscellaneous Provisions
20. Case studies on specific Chapters involving real life scenarios

For any query, please mail us – trd@icmai.in

Contact No. - +91 33 40364747/ +91 33 40364714/+91 33 40364711

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

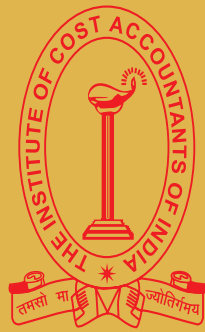
The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes an attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

Contact Details:

Tax Research Department
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364747/ +91 33 40364721/ +91 33 40364711

E-mail: trd@icmai.in



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100

Behind every successful business decision, there is always a CMA