

APRIL, 2019

TAX Bulletin



VOLUME - 38



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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MISSION STATEMENT

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

VISION STATEMENT

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

Objectives of Taxation Committee:

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

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FROM TAX RESEARCH DEPARTMENT

The Indian taxation system for goods and services is defined by a cascading, distorted tax structure which leads to misallocation of resources, hampering productivity and slower economic growth. To remove this hurdle, a unified and a simple tax system like GST (Goods and Service Tax) was needed to unite the nation. The GST system has been implemented across India on 1st April 2017.

Under the GST, all transactions, such as sale, transfer, barter, lease, or importation of goods and/or services made for consideration will attract CGST (to be levied by Centre) and SGST (to be levied by states). GST is a destination-based taxation system, which means the liability to pay CGST / SGST will arise at the time of supply as determined for goods and services. The Tax Research Department of The Institute of Cost Accountants of India has been striving hard, since inception to cater to the needs of the stakeholders in this genre.

In Indirect Taxation we have successfully conducted three batches of the Certificate Course on GST. The examination of the third Batch of the said course is due on the 21st of April, 2019 all across India. We wish good luck to all the candidates and wish them all the luck for clearing the exams.

But it is not only Indirect Taxation or GST; we have spread our wings in the arena of Direct Taxation as well. We have launched two courses, Certificate Course on TDS and Certificate Course on Returns Filling and Filing. The conduct of classes of the first course has already commenced on the 16th of April, 2019.

Fortnightly Tax Bulletins are also being published every 15 days. We have come up with the 37th and 38th volume of the Tax Bulletin this month.

We are grateful for the support and guidance of our resource contributors and mentors. The department is indebted to all of them. We solicit support in serving our members, learner and students better and further.

Thank You.

Regards
Tax Research Department
17th April 2019

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

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AMORTARISATION OF COST OF MOULDS AND DIES-TREATMENT UNDER GST LAW

CMA Chander Prakash Kalra
Practicing Cost Accountant

Clarification

Whether amortisation cost of Dies & Moulds supplied on Free of Cost (FOC) to Components Supplier to be included in the cost of the components for the purposes of levying GST

There is a common practice in manufacturing organizations to outsource manufacturing activities. The manufacturers usually supply Dies or Moulds to outsourced agents in order to maintain quality and integrity of their products. In some cases, such Dies or Moulds are fabricated / manufactured by the outsourced agents at the cost of the manufacturer.

This article deals with the provisions of GST law regarding treatment of the cost of Dies and Moulds in the value of goods produced / outsourced.

Original Equipment Manufacturers (OEM) provide Dies & Moulds to their component supplier (not being related party or distinct person) for the following objectives:

1. The Components Suppliers (CS) may not have access to facilities for making of Dies & Moulds of superior quality to ensure product quality
2. The CS may not be financially capable to bear the cost of Dies & Mould as the recovery of cost will be required to be spread over the projected volumes of finished products of OEM based on product life cycle. For example, cost of making bumper of an automobile may run into crores of rupees and recovery of cost incurred shall be spread over projected volume of that automobile over number of years say 5-10 years
3. Development of critical (depending on complexities of design) Dies & Moulds are a time consuming process hence it may be a business prudence to retain ownership of such Dies & Moulds to safe-guard their interest in case of any CS is not able to supply components due to reasons

attributable to force majeure. In such cases, the OEM may shift such Dies & Moulds.

Let us now examine Section 15 of the CGST Act, 2017 which defines value of taxable supply. Section 15(2) (b) provides that value of supply shall include "any amount that supplier is liable to pay in relation to such supply but which is incurred by recipient of supply and which is not included in price actually paid or payable for the goods or services or both".

The effect of 15(2) is that if any cost which the supplier of the components is required to bear for the supply is borne by recipient then the value of such supply shall include such cost for the purpose of levying Goods & Service Tax (GST).

Question of whether the CS is required to include such a cost/expense as discussed above in the value of supply, shall be determined by the terms of contract between the supplier & recipient –

- (1) If the terms of the contract provide that components/dies/moulds shall be supplied by the recipient then there is no requirement to include the cost of such components or amortized cost of such dies/moulds in the value of supply.
- (2) If the terms of the contract do not provide for any stipulation as specified in (1) above & components/dies/moulds is supplied by the recipient then value of such supply shall include cost of components or amortised cost of dies/tools.

Central Board of Indirect taxes & customs has issued a clarifications on free of cost supply of moulds & dies vide Circular No. 47/21/2018-GST dt 08.06.2018, of which relevant extract is reproduced below:

1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to

the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).

1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components.

Though the clarification has been issued by the Central Board of Indirect taxes & customs is related to moulds & dies supplied on Free of cost basis to component manufacturer but it amply clarifies intent of law as contained in section 15(2) for determining the value of supply for the purposes of levy of tax. The terms of contract between the supplier & recipient shall be the basis to determine whether to include the expenses borne by recipient in value of supply or not. If contract provides that expense is to be borne by recipient then there is no requirement to include in the value of supply not otherwise. To illustrate further, let us consider the following example:

A buyer enters into a contract with a component supplier (CS) to supply a product which is manufactured by assembly of several components. The buyer shall be supplying a critical component out of these several components to CS on Free of Cost (FOC basis). The price of the product do not factor the cost of this free component as it is provided by buyer on FOC basis but include the cost of operation performed in using that component. Since the terms of contract is that the components shall be provided by buyer hence pricing of product has been done accordingly. So while supplying this product to buyer (recipient), the cost of FOC component shall not be included in the value of supply.

Now we draw attention to a different scenario where all components are required to be procured by component supplier who being constrained by financial scale economies or infrastructure is not able to procure the same and the components are

supplied by buyer, then the value of the component are to be included in the taxable value of the product to be supplied by CS. This activity will definitely call for re-fixation of price of product as cost of FOC component so received from buyer is already factored in. An alternative procedure in that case may be followed by buyer by supplying such component as taxable supply.

GST IMPLICATIONS ON SALES PROMOTIONAL SCHEMES

CA Devam Sheth

Practicing Chartered Accountant

Nowadays, trade & industry executes certain attractive promotional methodology to accelerate the sale of their respective products and It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

These methods or tools ranges from types of discounts, involvement of free samples, allocation of warranty supplies, provision of extra quantity of the products. Such employ of these promotional schemes is indispensable in current era of cut throat competition; it is of great importance to understand the GST implications with respect to the aforesaid schemes.

It is perceive that major of the promotional schemes are either in the terms of free supplies or in the nature of discounts, regardless of the fact how it is accepted by the customers. While the definition of supply requires the presence of consideration so to ensure for a transaction to constitute a supply, further, certain transaction listed under Schedule I of the CGST Act, 2017 are covered under the ambit of supply despite when performed without consideration.

The chargeability of tax on the aforesaid promotional schemes in the nature of free supplies needs to be assessed in accordance with Schedule I of the CGST Act 2017. Moreover, implications of discounts shall be examined in accordance with Section 15 which governs Value of Supply of particular transactions executed.

Moreover, the tax consequences in regard to these promotional schemes need an examination in the light of restrictions imposed for availment of input tax credit & attention is invited towards the provisions of Section 17(5) of the CGST Act 2017.

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. The summarization of GST implications on certain promotional schemes that are announced by trade & industry:

- **Free Samples**

The implementation of free samples is usually exercised for newer products to penetrate or probe the market area. Such free samples are conventionally distributed to a person who happens to be unrelated without any consideration. It is imperative to mark a note that supplies to related persons without consideration are covered under Schedule I of the CGST Act 2017. Accordingly, it is clarified that 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..

However, the input tax credit of goods distributed as free samples shall be ineligible in terms of blocked credit in accordance with clause (h) of Section 17(5) of the CGST Act 2017. 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.

Thus, if the taxpayer avails the input tax credit on account of a purchase of goods, and later gives these goods as free samples, then he will have to reverse the input tax credit so availed.

- **Excess / Extra Units - Quantity of the Same Product / / Buy one get one free offer**

The provision of an extra unit/quantity of the either same or similar product is entirely an efficient marketing approach. This implementation is commonly undertaken by FMCG companies and retail shopping outlets.

For Illustration –Buy 1 get 1 offers or 20% extra quantity offers on shampoos, hair oils, soaps etc. In the instant case, the cost of the 1 free unit/extra quantity of shampoo is principally included in sale price of the 1 unit for which the customer is paying.

It may appear at first glance that in case of offers like “**Buy One, Get One Free**”, one item is being “supplied free of cost” without any consideration.

In fact, it 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

Such promotional schemes are introduced to provide the buyer an inducement to purchase/buy more quantity at a given attractive price indirectly by offering something free. Hence, offering extra units/quantity of the same product is in the nature of discounts.

Some suppliers also offer periodic / year ending discounts to their stockiest, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.

Further, 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.

Hence, there shall not be GST liability required to be discharged on the extra unit/quantity of the product being offered as a promotional scheme. Further, no reversal of credit is required in respect of the extra units/quantity being offered for free/no value.

However, in terms of Section 17(5)(h) of CGST Act, 2017, such goods provided free of cost can be considered as gift and department may ask for the

reversal of the credit in respect of the same. Thus, it is recommended that in the invoice under such schemes, companies shall reduce the value of the product provided free of cost, as a trade discount, from the total value of the products including the product which is to be provided as gift. In such a case, companies shall be eligible to avail input tax credit of such goods sold without any fear of litigation.

- **Providing Free Gifts to dealers /distributors / extended hand of business**

Major companies propose free gifts to dealers / distributors on achieving certain level of targets to incentivize/ encourage the distribution channel process. These goods may be manufactured by the company itself or may be procured from outside.

For illustration, companies present household appliances like television, mobile, air conditioning, etc, to dealers / distributors on achieving commercial sales targets. The tax implications in this regard needs to be examined under Entry 1 of Schedule I which is as under:

"Permanent transfer or disposal of business assets where input tax credit has been availed on such assets"

The term Business Assets has not been defined under the Act. According to meaning rule, words must be given their plain, ordinary and literal meaning. In the instant case, the term Business Asset is of very wide connotation. It includes every asset of the business including capital goods, finished goods etc.

Considering the wide definition of business assets, such goods shall easily be referred to as business assets. Hence, transfer of such business assets on which input tax credit has already been availed shall be considered as supply and hence the same shall be exigible to GST.

It pertinent to note here that the essential condition here is the availment of input tax credit in respect of the goods. In case input tax credit is availed on any goods being distributed as gifts, the transaction shall be covered under the ambit of supply and tax shall be levied.

However, Section 17(5) disallows the availment of input tax credit in case of goods being distributed as gifts. Hence, ITC shall be disallowed on such

goods being distributed as gifts to the distributors. Further, in the absence of availment of ITC, the transaction shall not be covered under the definition of supply.

However, in term of Section 17(5)(h) of CGST Act, 2017, notwithstanding anything contained in Section 16(1) and Section 18(1) of CGST Act, 2017, input tax credit in respect of goods, destroyed, written off or disposed of by way of gift or free samples shall not be available.

One may have a contrary view, the goods distributed to distributors free of cost is a part of sales promotion expense in the hands of the companies, thus it cannot be considered as gift. In this regard, we would like to refer to the case of FEDERAL COMMISSIONER OF TAXATION v. McPHAIL (1968) 117 CLR 111 26 March 1968 wherein Hon'ble High Court has provided that to constitute a "gift", the property should be transferred voluntarily and not as a result of a contractual obligation and no advantage of material character was received by transferor.

Goods distributed to distributors are benefitting the companies in promoting their sales. Thus, the same shall not be considered as gift. Hence, input tax credit should be available in respect of such goods.

- **Supply under warranty**

It is a general practice in major electronic goods industries, automobile industries to offer warranties on the sale of their products. A warranty is primarily an undertaking by the manufacturer to the end-customer wherein all defects on account of faulty manufacture of the goods have to be repaired and the faulty parts in the product shall be replaced free of cost to the customer.

This warranty may be the basic warranty for which no extra charges are charged or paid by the customer. On the other hand, warranty may be extended warranty which is chargeable and is optional for the customer to purchase.

In the event where goods are supplied to the customer under warranty, no consideration is demanded for the replacement of parts or the provision of repair services. In such an instance, the transaction between unrelated persons shall not be

covered under the definition of supply and no tax shall be chargeable.

At this juncture, it is relevant to give attention to upon the fact, when such goods were procured by customer; the value of supply included the value of goods and services that may be supplied under warranty (on an approximate basis). Hence, in this case the question of levying tax on the goods and services supplied under warranty should not arise.

Further, there is no restriction on the availment of ITC on goods or services supplied under warranty, hence, no reversal of credit is required as it not hit by Section 17(5) of CGST Act 2017.

- **Free Articles**

Under promotional schemes, an article if offered for free along with the purchase of the principal product. For illustration - a laptop bag may be offered for free on the purchase of a laptop for which the customer is paying. In this very case, the cost of the free laptop bag happens to be included in the price of the laptop. It is just an arrangement from the supplier side to penetrate the customer's requirement to believe that the laptop bag is for free.

The discount or the value of the free article shall not be included in the value of the laptop for the purpose of computing the GST liability. Hence, there shall be no GST supposed to be paid on the free article being offered as a part of marketing or promotional schemes. Further, there is also no requirement to reverse the input tax credit in this regard as it not hit by Section 17(5) of CGST Act 2017.

PRACTICAL ASPECTS ON COLLECTION OF TAX AT SOURCE UNDER GST

CA Ankit Gupta

Practicing Chartered Accountant

After 1 year of successful implementation of GST, the government had finally give his nod on the applicability of the provisions related to TCS and TDS under GST with effect from 01.10.2019; all provisions related to TCS are covered under section 52 and Rule 67, 68, 79 & 80.

By keeping mind the experience I gain in past 6 months after making timely compliances related to TCS under GST and understanding the impact of all such provisions on both Operator as well as Supplier, I came up with his article which will help professionals to understand all the provisions related to TCSt under same roof.

(A) Effective date of applicability of these provisions

As per Notification No. 52/2018 of Central Tax dated 20.09.2018, the provisions of TCS have come into force w.e.f. 01.10.2018

(B) Persons required to collect TCS

As per the provisions of Section 52, every electronic commerce operators (like Amazon, Flipkart, Snapdeal, Paytm etc); not being an agent shall collect TCS.

(C) Meaning of electronic commerce operators

As per Section 2(45) of CGST Act, electronic commerce operator means any person who own, operates or manages digital or electronic facility or platform for electronic commerce.

(D) Rate and Manner of Collection of TCS

Every person required to collect TCS shall an amount calculated @ 1% on the net value of taxable supplies made through it by other suppliers where the consideration wr.t. Such supplies are to be collected by the operator.

Net value of Taxable supplies means the aggregate value of taxable supplies of goods or services or both, made by the `registered supplier through the operator; reduced by the aggregate value of taxable supplies returned to the supplier during the said month.

TCS shall be collected by the Operator in a manner specified in below table

OUTWARD SUPPLY	TAXABLE VALUE	TCS		
		CGST@0.5%	SGST@0.5%	IGST @1%
Interstate supply by supplier	Rs.1,000	-	-	Rs.10
Intrastate supply by supplier	Rs.1,000	Rs.5	Rs.5	-

(E) Payment of amount collected as Tax by Collector

The amount collected by the Operator shall be paid to the Government within 10 days after the end of the month in which collection is made.

(F) Liability to pay interest

Where the operator fails to deposit the amount collected at source in full then he shall be liable to pay differential amount alongwith interest @18% in accordance with the provisions of Section 50(1).

(G) Compulsory registration of Operator for collecting Tax at source

As per the provisions of Section 24(x) of CGST Act, every electronic commerce operator who is required to collect tax at source u/s 52 is compulsorily required to be registered under this act, irrespective of the value of supplies.

GST REG 07 is required to be filed by them electronically along with the requisite attachments.

(H) Furnishing of Return by electronic commerce operator

Every operator who Collects tax at source shall furnish a return electronically in Form GSTR 8 containing the detail of outward supplies of goods or services or both effected through it, including the details of returns through it and the amount TCS collected by it, within 10 days after the end of such month.

A notice in FORM GSTR-3A shall be issued, electronically, to operator who fails to furnish return.

(I) Furnishing of Annual Return by the Operator

Every operator who collect Tax at source shall furnish an annual return in form GSTR 9B electronically before 31st December following the end of such financial year; containing the details of outward supplies of goods or services or both effected through it, including the details of returns through it and the amount TCS collected by it, during the financial year.

(J) Manner of availment of Credit by the Supplier

The details of Tax collected by the operator can be viewed by the Supplier in GSTR 2A of relevant month under head TCS credit.

Then such credit can be transferred by the supplier to their Electronic Cash ledger by filing TDS and TCS return form available on the GSTIN of relevant month by accepting the transaction entries specified therein.

It must be noted that the entry of such TCS transaction alongwith the value of value of supplies of goods or Services or both will be reflected on GSTIN of the supplier, after the filing of form GSTR 8 by operator of that particular month.

(K) Finalization of GSTR 3B and GSTR 1 by Supplier

The details of outward supplies furnished by the supplier in form GSTR 3B and GSTR 1 should be matched with the corresponding details of Outward supplies furnished by the Operator in form GSTR 8.

Where the details of outward supplies furnished by the operator do not match with the corresponding details furnished by the concerned registered supplier then the discrepancy shall be communicated to both persons electronically in Form GST MIS 3 to the supplier and in Form GST MIS 4 to the operator on or before the last day of the month in which the matching has been carried out

(L) Rectification of discrepancy after service of notice u/s 52(9) of CGST Act

The Supplier or Operator to whom discrepancy is made available u/s 52(9) may make suitable rectification in the statement to be furnished for the month in which the discrepancy is made available.

Where the discrepancy is not rectified then the amount of such discrepancy shall be added to the Output Tax Liability of the Supplier in his return for the month succeeding the month in which the detail of discrepancy is made available.

That addition will be made where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier.

In addition to the output tax, the supplier shall be liable to pay interest @18% in accordance with the provisions of Section 50(1) of CGST Act.

(M) Suo Moto rectification by Operator in the statement furnished u/s 52(4) (GSTR 8)

If any operator, after furnishing GSTR 8 discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities then he shall rectify it in the statement to be furnished for the month during which such incorrect particulars omission are noticed, subject to payment of interest as per section 50(1).

Provided that no such rectification is allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(N) Seeking Information from Operator by Authorities

Any authority not below the rank of Deputy Commissioner may serve a notice to the operator requiring him to furnish details related to

- (a) Supply of Goods or Services or both effected through it during any period; or
- (b) Stock of goods held by the supplier making supplies through such operator in the warehouse or godown managed by such operator and declared as additional place of business by such supplier

Every operator to whom such notice has been served u/s 52(12) shall furnish the required information within 15 working days of the date of service of such notice.

Where the operator fails to furnish the information required by the notice then without prejudice to any action taken u/s 122, be liable to pay penalty which may extend to Rs.25000.

TDS RATE CHART FOR THE FY – 2019-2020 (AY: 2020 - 2021)

TEAM TRD

SI No	Nature of Payment	Section	Basic Cut-off (Rs.) p.a.	TDS rate for		
				Individual and HUF	Other than Individual/HUF	If PAN is not submitted/Invalid PAN
1	Payment of Salaries by Employers	192	Slab rate	Slab rate	Not applicable	30%
2	Premature payment by PF Organization from EPF A/c (i.e. before 5 Years).	192A	50,000.00	10%	Not applicable	20%
3	Payment of Interest on Securities by company.	193	10,000.00	10%	10%	20%
4	Payment of Dividend other than dividend as referred to Section 115O by company (i.e. Dividend on which Dividend Distribution Tax is not paid)	194	2,500.00	10%	10%	20%
5	Payment of Interest by bank	194A	40,000.00 (Non Sr. Citizen) 50,000.00 (Sr. Citizen)	10%	10%	20%
6	Payment of Interest by others	194A	5,000.00	10%	10%	20%
7	Payment of prize from Wining from Lotteries by any person.	194B	10,000.00	30%	30%	30%
8	Payment of prize from Wining from Horse Race by any person.	194B	10,000.00	30%	30%	30%
9	Payment to Contractors by any person.	194C	30,000.00 (Single bill) or 1 Lakh aggregate bills during the year.	1%	2%	20%
10	Payment to Transporter Covered u/s. 44E and submit declaration in prescribed format. (i.e. owning less than 10 goods carriages)	194C	-	0	0	20%
11	Payment to Transporter not covered u/s. 44E (i.e. owning more than 10	194C	30,000.00 (Single bill) or 75,000.00	1%	2%	20%

	goods carriages)		aggregate bills during the year.			
12	Payment of Insurance Commission to agents by Insurance Company.	194D	15,000.00	5%	10%	20%
13	Payment in respect of maturity of Life Insurance Policy by Life Insurance Company.	194DA	1 Lakh	1%	1%	20%
14	Payment to NRI sportsman or association by any person or organization	194E	-	20%	20%	20%
15	Payment out of deposit under National Saving Scheme (NSS)	194EE	2,500.00	10%	10%	20%
16	Payment with respect to repurchase of units by Mutual Fund Companies.	194F	-	20%	20%	20%
17	Payment of Lottery Commission	194G	15,000.00	5%	5%	20%
18	Payment of commission or Brokerage	194H	15,000.00	5%	5%	20%
19	Payment of rent on land, building, furniture and fittings.	194I	240,000.00	10%	10%	20%
20	Payment of rent on plant, machinery or equipments.	194I	240,000.00	2%	2%	20%
21	Payment made on account of transfer of immovable property other than agriculture land.	194IA	50 Lakh	1%	1%	20%
22	Rent payable by individual not covered u/s. 194I for land, building, furniture and fittings	194IB	50,000.00 PM	5%	5%	20%
23	Payment of Professional Fees other than call centers	194J	30,000.00	10%	10%	20%
24	Payment of Professional Fees to call centers.	194J	30,000.00	2%	2%	20%
25	Compensation on transfer of certain immoveable property than Agriculture Land	194LA	250,000.00	10%	10%	20%

RULE OF ISSUING INVOICE IN GST

TEAM TRD

According to Rule 46 (b) of the CGST Rules 2017, it has been specified that the tax invoice issued by a registered person

- should have a consecutive serial number,
 - not exceeding 16 characters
 - in one or multiple series
 - containing alphabets or numerals or special characters and any combination thereof
- unique for a financial year.

This rule implies that with the start of new financial year 2019-20 (w.e.f. 01/04/2019), a new invoice series, unique for the financial year is to be started by the GST taxpayers.

Similar provision is there in Rule 49 of the CGST Rules 2017, in respect of issue of Bill of Supply by registered taxpayers availing Composition Scheme or supplying exempted goods or services or both.

If the provisions of Rule 46 or Rule 49 are not adhered to, apart from being a compliance issue, taxpayers may face problem while generating E-Way Bill on E-way bill system or furnishing their Form GSTR 1 or for applying for refund on GST Portal.

It is therefore necessary that suitable modification may be made by the taxpayers in this regard in their invoices or bill of supply, to avoid any inconvenience in the future.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GOODS AND SERVICES TAX

CENTRAL TAX

Notification No. – 17/2019

Date –10.04.2019

Seeks to extend the due date for furnishing FORM GSTR-1 for taxpayers having aggregate turnover more than Rs. 1.5 crores for the month of March, 2019 from 11.04.2019 to 13.04.2019

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

Amendments - Due date for submission of GSTR – 1 (*details of outward supply of goods or services or both*) for the month of March, 2019 has been extended up to 13th April, 2019.

Notification No. – 18/2019

Date –10.04.2019

Seeks to extend the due date for furnishing FORM GSTR-7 for the month of March, 2019 from 10.04.2019 to 12.04.2019

CBIC has extended the time limit for furnishing GSTR 7 (*the return by a registered person required to deduct tax at source under the provisions of section 51*) for the month of March, 2019 till the 12th April, 2019.

CIRCULARS (CGST)

Circular No.-97/2019

Date – 5.04.2019

Circular clarifying issues regarding exercise of option to pay tax under notification No. 2/2019- CT(R) dt 07.03.2019 issued.

As per Notification No. 02/2019-Central Tax (Rate) dated 07.03.2019 , central tax was fixed @ 3% on first supplies of goods or services or both upto an aggregate turnover of Rs. 50 lakh in the preceding financial year.

Amendment:-As per Notification No. 09/2019-Central Tax (Rate) dated 29.03.2019, the above provisions is applicable to a person paying tax u/s 10 under the said notification.

In order to ensure uniformity in the implementation of the provisions of the law across field formations, CBIC has clarified the issues raised as below:-

- A registered person who wants to opt for payment of central tax @ 3% by availing the benefit of Notification No. 02/2019-Central Tax (Rate) dated 07.03.2019, may do so by filing intimation in FORM GST CMP-02 by selecting the category of registered person as “*Any other supplier eligible for composition levy*”, latest by 30th April, 2019.
- Such person shall also furnish a statement in FORM GST ITC03 in accordance with the provisions of sub-rule (3) of rule 3 of the said rules.
- Any person who applies for registration and who wants to opt for payment of central tax @ 3% by availing the benefit of Notification No. 02/2019-Central Tax (Rate) dated 07.03.2019, if eligible, may do so by indicating the option at serial no. 5 and 6.1(iii) of FORM GST REG-01 at the time of filing of application for registration.

- The option of payment of tax by availing the benefit Notification No. 02/2019-Central Tax (Rate) dated 07.03.2019 in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number.
- The option to pay tax by availing the benefit of the said notification would be effective from the beginning of the financial year or from the date of registration in cases where new registration has been obtained during the financial year.
- It may be noted that the provisions contained in Chapter II of the said Rules shall mutatis mutandis apply to persons paying tax by availing the benefit of the said notification, except to the extent specified in para 2 above.

CUSTOMS - TARIFF

Notification No. – 12/2019

Date –11.04.2019

Seeks to amend notification No. 39/96-Customs dated 23.07.1996 so as to extend the exemption provided to the Light Combat Aircraft Programme of the Ministry of Defence till 31.06.2019

The Central Government has made amendments in the Notification No. 39/96-Customs, dated the 23rd July, 1996.

In the said notification, in the Table, for S. No. 18 and the entries relating thereto, the following S. No. and entries shall be substituted, namely:-

"18.	Machinery, equipment, instruments, components, spares, tools, accessories, computer software, mockups and models, raw materials and consumables required for the purposes of Light Combat Aircraft Programme (LCAP) of the Ministry of Defence	<p>If,-</p> <ol style="list-style-type: none"> a) the said goods are imported by authorised works centres of the LCAP, as may be designated by an officer not below the rank of a Deputy Secretary to the Government of India, in the Ministry of Defence; and b) such importers produce to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, at the time of import, in each case, a list of the said goods with their relevant description, - <ol style="list-style-type: none"> 1) duly certified by the Senior Manager or the Assistant Director, Aeronautical Development Agency, to the effect that the goods mentioned in the said list are required for the LCAP of the Ministry of Defence, shall be used only for the LCAP and that they are not manufactured in India; and 2) duly certified also by an officer not below the rank of an Under Secretary to the Government of India in the Ministry of Defence to the effect that the imports of the goods mentioned in the said list are authorised by the Ministry of Defence under and for the purposes of the LCAP. <p><i>Explanation.</i> - Nothing contained in this exemption shall have effect on or after the 1 st day of July, 2019."</p>
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CUSTOMS - NON TARIFF

Notification No. – 28/2019

Date –01.04.2019

Denotification of ICD Kheda

CBIC has amended the Notification No. 12/97-Customs (N.T), dated 2.04.1997.

Amendment: - Against Serial No. 8, relating to the state of Madhya Pradesh, in coloumn (3) the item (vi), and the corresponding entry thereto in coloumn (4) shall be omitted.

Notification No. – 29/2019

Date –01.04.2019

Handling of Cargo in Customs Areas (Amendment) Regulations, 2019

CBIC has amended the Handling of Cargo in Customs Areas Regulations 2009.

Amendment:-

- These regulations may be called the Handling of Cargo in Customs Areas (Amendments) Regulations 2019.
- In the Handling of Cargo in Customs Areas Regulations 2009, in regulation 5, in sub regulation (1), in clause (i), for sub clause (o) , the following sub clause shall be substituted.

(o) such other equipment or facilities as the Board or Principal Commissioner of Customs or Commissioner of Customs , as the case may be, may specify having regard to the screening , examination, custody and handling of imported or export goods in a customs area.

Notification No. – 30/2019

Date –04.04.2019

Exchange Rates Notification No.30/2019-Custom (NT) dated 04.04.2019

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian Currency or vice versa.

Foreign Currency	Rate of Exchange of One Unit of Foreign currency equivalent to Indian Rupees	
	For Imported Goods	For Exported Goods
Australian Dollar	50	47.75
Baharin Dinnar	188	176.15
Canadian Dollar	52.35	50.45
Chinese Yuan	10.40	10.05
Danish Kroner	10.50	10.15
EURO	78.55	75.65

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt30-2019.pdf;jsessionid=63D3E4A54471945D4115C511B2DDD992>

Notification No. – 31/2019

Date –15.04.2019

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Sliver – Reg

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

Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1511 10 00	Crude Palm Oil	540
1511 90 10	RBD Palm Oil	569
1511 90 90	Others – Palm Oil	555
1511 10 00	Crude Palmolein	570
1511 90 20	RBD Palmolein	573
1511 90 90	Others – Palmolein	572
1507 10 00	Crude Soya bean Oil	693

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt31-2019.pdf;jsessionid=4695CD3A42A729C5F8958FB647D10C07>

CUSTOMS - ANTI DUMPING DUTY

Notification No. – 16/2019

Date –09.04.2019

Seeks to rescind notification No. 21/2015-Customs (ADD), dated the 22nd May, 2015

The Central Government has rescinded the Notification No. 21/2015- Customs (ADD) dated 22nd May, 2015, except as respects things done or omitted to be done before such recession.

Notification No. – 17/2019

Date –09.04.2019

Seeks to impose definitive anti-dumping duty on Cast Aluminium Alloy Wheels or Alloy Road Wheels used in Motor Vehicles originating in or exported from China PR, Korea RP and Thailand

In case of continuation of anti-dumping duty on imports of 'Cast Aluminium Alloy Wheels or Alloy Road Wheels (ARW) used in Motor Vehicles, whether or not attached with their accessories, of a size in diameters ranging from 12 inches to 24 inches' originating in or exported from China PR, Korea RP and Thailand, the designated authority has come to conclusion –

- a) the product under consideration continues to be imported at the dumped prices from the subject countries;
- b) the domestic industry has suffered continued injury on account of dumped imports;
- c) the continued injury to the domestic industry is on account of dumped imports and is likely to continue if the anti-dumping duties from subject countries cease to exist;
- d) the information on record clearly shows likelihood of continuation of dumping and injury in case the ADD in force is allowed to cease at this stage;
- e) some Producer exporters from China PR have responded during the review investigation and cooperative producer exporters (who have filed complete response) have been sampled. The sampled producers have exported through a single exporter to India below the normal value (constructed), and dumped imports are causing the material injury to the domestic industry.
- f) none of the producer exporters from Korea RP have co-operated in the present review investigation. The information submitted by responding producer exporter from Thailand was incomplete and hence declared non cooperative;
- g) the data available indicates that exports from these countries have been made at prices below the normal value.

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

Now, after considering the final findings of the designated authority, has imposed on the subject goods, an anti-dumping duty.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd17-2019.pdf>

Notification No. – 18/2019

Date –10.04.2019

Seeks to amend notification No. 23/2013-Customs(ADD), dated the 10th October, 2013 to extend the anti-dumping duty on ductile iron pipes originating in, or exported from China PR till 9th May, 2019

In case of Ductile iron pipes originating in, or exported from China PR, and imported into India, the designated authority in its final findings vide Notification Number 15/1006/2012-DGAD, dated the 4th September, 2013 had recommended continuation of anti-dumping duty on the imports of subject goods.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd18-2019.pdf;jsessionid=268A51C3E84BEBCEA2C2928A90500E37>

Notification No. – 19/2019

Date –16.04.2019

Seeks to rescind anti-dumping duty notification No. 39/2018-Customs (ADD) dated 20.08.2018, in pursuance with sunset review final findings issued by the DGTR.

CBIC has rescinded the Notification No. 39/2018-Customs (ADD), dated the 20th August, 2018.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd19-2019.pdf;jsessionid=1EC06B33FC2B9A7618A900750C490CB3>

CIRCULARS

Circular No. – 11/2019

Date –09.04.2019

Phasing out of physical copies of Merchandise Exports from India Scheme (MEIS)/Services Exports from India Scheme (SEIS) Scrips issued with EDI port as port of registration

In order to enhance the ease of doing business for exporters, DGFT has decided to phase out physical copies of MEIS and SEIS Duty Credit Scrips issued with EDI port as port of registration. DGFT has issued Public Notice No. 84/2015-2020 dated 03.04.2019 and Trade Notice No. 03/2015-2020 dated 03.04.2019 notifying this change. This shall come into effect for MEIS/SEIS duty credit scrips issued by DGFT from 10.04.2019 onwards for cases where the port of registration is an EDI port.

MEIS/SEIS duty credit scrips shall continue to be transmitted electronically by DGFT to the Customs system. The details of the said scrips would be visible in ICES to concerned officers involved in import of goods i.e. registration of the scrips, assessment of Bill of Entry, giving out of charge to imported goods, etc.

For registration, assessment and debiting of scrips, the current procedure as per the extant Circular No. 12/2016-Customs dated 28.03.2016 shall continue to be followed except that instead of presenting physical copy of the MEIS/SEIS scrips printed on security paper, the current owner or his authorized representative shall approach the proper officer of Customs with details of the MEIS/SEIS scrip such as IEC number, scrip number etc. As regard verification of ownership of scrip, same will be checked from the DGFT website referred above.

All debits in respect of the paperless scrips shall be made in ICES only and no physical debits would be required on the copy of scrips. In view of condition in the relevant exemption notifications under the Customs Act, 1962 and Central Excise Act, 1944 prescribing that the scrip shall be produced before proper officer of Customs at the time of clearance and debiting of the duties leviable on the goods, the correctness of the debits made electronically in ICES shall continue to be verified by the proper officer.

No TRA shall be issued in respect of these paperless scrips issued electronically by DGFT. Consequently, such paperless scrips issued for EDI ports cannot be used for making imports at non-EDI ports. DGFT shall continue to issue scrips in physical form on security paper as per current practice for non-EDI ports. The facility of TRA would be available for such physical scrips for making imports at other EDI/non-EDI ports.

For procurement of goods from domestic manufacturer on payment of Central Excise duty, the exemption notifications No. 20/2015-Central Excise and No. 21/2015-Central Excise both dated 08.04.2015 prescribe detailed procedure for debiting of scrip, endorsement by Central Excise officer etc. In view of doing away of physical copy of MEIS/SEIS duty credit scrips, suitable changes in the prescribed procedure have been notified vide Notification No. 01/2019-Central Excise dated 09.04.2019.

DIRECT TAX

Notification No. – 32/2019

Date –01.04.2019

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

1. Short title and commencement. __

- 1) These rules may be called the Income-tax (Second Amendment) Rules, 2019.
- 2) They shall come into force with effect from the 1st day of April, 2019.

2. In the Income-tax rules, 1962 (hereinafter referred to as the principal rules), in rule 12, –

(a) in sub-rule (1),-

(i) in the opening portion, for the figures “2018”, the figures “2019” shall be substituted;

(ii) in clause (a), in the proviso, after item (IC), the following items shall be inserted, namely: __

“(ID) has claimed deduction under section 57, other than deduction claimed under clause (ii) thereof;

(IE) is a director in any company;

(IF) has held any unlisted equity share at any time during the previous year;

(IG) is assessable for the whole or any part of the income on which tax has been deducted at source in the hands of a person other than the assessee.

For more details, please follow -

https://www.incometaxindia.gov.in/communications/notification/notification_32_2019.pdf

Notification No. – 33/2019

Date –09.04.2019

CBDT has notified for the purposes of the said clause, ‘Mysore Palace Board’, Karnataka, a board constituted by the Government of Karnataka, in respect of the following specified income arising to that board, namely:-

- (a) Income from Palace or proceeds of any property vested in the Board;
- (b) All fees and charges levied by the Board under the Mysore Palace (Acquisition and Transfer) Act, 1998 and forming part of the Board fund;
- (c) Rent received from the stalls let out to Government Agencies; and
- (d) Interest earned on (a) to (c) above.

This notification shall be effective subject to the conditions that Mysore Palace Board, Karnataka,-

(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.

This notification shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

Notification No. – 34/2019

Date –09.04.2019

CBDT has notified for the purposes of the said clause, ‘Telangana State Electricity Regulatory Commission’, Hyderabad, a commission constituted by the State Government of Telangana, in respect of the following specified income arising to that Commission, namely:—

(a) Grants and loans received from the government of Telangana;

(b) All fees and sums received by Telangana State Electricity Regulatory Commission, Hyderabad under the Electricity Act, 2003 (36 of 2003); and

(c) Interest earned on (a) & (b) above.

This notification shall be effective subject to the conditions that Telangana State Electricity Regulatory Commission, Hyderabad—

- (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.

This notification shall apply with respect to the assessment year 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

Notification No. – 35/2019

Date –09.04.2019

CBDT has notified for the purposes of the said clause, 'Kerala Headload Workers Welfare Board', Kochi (PAN AAJK1176F), a Board constituted by the State Government of Kerala, in respect of the following specified income arising to that Board, namely:—

- (a) Amount received in the form of grants-in-aid and loan from Government;
- (b) Levy collected under the Kerala Headload Workers Act, 1978 (20 of 1980), Kerala Headload Workers rules 1981 and schemes there under;
- (c) Registration fees collected from members registered with the board as beneficiaries;
- (d) Sums received as deposit from employers as per Para 27 of Kerala Headload Workers (regulation of employment and welfare) Scheme 1983 formulated under section 13 of the Kerala Headload Workers Act, 1978 (20 of 1980);
- (e) Contribution from the members as defined in the Kerala Headload Workers Act, 1978 (20 of 1980), Kerala Headload Workers Rules 1981 and Scheme there under;
- (f) Interest on loans and advances given to staff of the board and workers;
- (g) Sums received as wages from employers as per Para 24(a) and 24(b) of Kerala Headload Workers (Regulation of employment and welfare) Scheme 1983 formulated under section 13 of the Kerala Headload Workers Act, 1978 (20 of 1980); and (h) Interest earned on (a) to (g) above.

This notification shall be effective subject to the conditions that Kerala Headload Workers Welfare Board, Kochi—

- (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.

This notification shall apply with respect to the assessment year 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

Notification No. – 36/2019

Date –09.04.2019

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

1. Short title and commencement (1) These rules may be called the Income-tax (3rd Amendment) Rules, 2019.
- (2) They shall come into force on 12th day of May, 2019.

In the Income-tax Rules, 1962, in Appendix II—

(A) in Form No. 16,—

- (i) the "Notes" occurring after "Part A" shall be omitted;
- (ii) for "Part B (Annexure), the following shall be substituted

For more details, please follow -

https://www.incometaxindia.gov.in/communications/notification/notification_36_2019.pdf

CIRCULARS

Circular No. -07/2019

Date – 08.04.2019

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

The period for furnishing of the report under sub-section (4) of section 286 of the Income-tax Act, 1961 shall be 12 months from the end of the reporting accounting year.

It has been further provided that in case the parent entity of the constituent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report shall be 6 months from the end of the month in which said systemic failure has been intimated.

On receipt of representations regarding the hardship being faced in complying with the requirement of furnishing the report under sub-section (4) of section 286 of the Act read with sub rule (4) of rule IODB of the Rules by March 31, 2018, vide Circular No 9/2018 dated December 26, 2018, as a one-time measure, the period for furnishing of said report by the constituent entities referred to under clause (a) or (00) of said sub-section, in respect of reporting accounting years ending upto February 28, 2018, was extended to March 31, 2019.

The agreement for providing for exchange of the report of the nature referred to in subsection (2) of section 286 of the Act has been entered into by India and the USA on March 27, 2019. However, the agreement and the exchange mechanism would come into effect only after both the countries notify each other about the completion of all internal procedures for exchange which is underway.

Since filing of the report by the constituent entity referred under clause (a) or (00) of subsection (4) of section 286 of the Act in India gets triggered on completion of twelve months from the last date of the reporting accounting year and Circular 9/2018 has extended the period for furnishing of the report till March 31, 2019 in respect of reporting accounting years ending upto February 28, 2018, due to non-notification of the agreement and resultantly non-activation of the exchange mechanism between India and the USA, said report has to be filed by such constituent entities, whose parent entities are resident in USA and whose reporting accounting years ended after February 28, 2018.

In view of the above, in order to remove the genuine hardship faced by the constituent entities referred to under clause (a) or (00) of said sub-section, whose parent entities are resident in USA, in furnishing of the report under sub-section (4) of section 286 of the Act read with sub-rule (4) of rule 10DB of the Rules, the Board, in exercise of powers conferred under section 119 of the Act, extends the period for furnishing of said report by such constituent entities, in respect of reporting accounting years ending upto April 29, 2018, to April 30, 2019.

PRESS RELEASE

DIRECT TAX

Indian Advance Pricing Agreement regime moves forward with signing of 18 APAs by CBDT in March, 2019

Date – 03.04.2019

The Central Board of Direct Taxes (CBDT) has entered into 18 APAs in the month of March 2019, which includes 03 Bilateral APAs (BAPAs). With the signing of these APAs, the total number of APAs entered into by the CBDT in the year 2018-19 stands at 52, which includes 11 BAPAs. The total number of APAs entered into by the CBDT as of now stands at 271, which inter alia includes 31 BAPAs.

The BAPAs entered into during the month of March 2019 were with the following treaty partners:-

Australia – 1
Netherlands – 1
USA – 1

The BAPAs and Unilateral APAs (UAPAs) entered into during the month of March 2019 pertain to various sectors and sub-sectors of the economy like antifriction bearings, risk management solutions platforms, BPO, IT/ITeS, ATMs, industrial and institutional cleaning and hygiene products, etc.

The international transactions covered in all these agreements, inter alia, include the following, -

- contract manufacturing
- provision of software development services
- back office engineering support service
- provision of back office (ITeS) support services
- provision of marketing support services
- payment of royalty for use of technology and brand
- Trading
- payment of interest

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

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Brief highlights of the recent searches in NCR, Bhopal, Indore and Goa

Date – 08.04.2019

Based upon credible information of large scale collection, possession and movement of unaccounted assets, Delhi Directorate of Income Tax (Investigation) initiated search and seizure action on a group in NCR, Bhopal, Indore and Goa. More than 300 IT officials participated in the operation at about 52 locations in 4 States.

Searches in Madhya Pradesh have detected wide spread and well-organized racket of collection of unaccounted cash of about Rs. 281 cr through various persons in different walks of life including business, politics and public service. A part of the cash was also transferred to the headquarter of a major political party in Delhi including about Rs 20 cr which was moved through hawala recently to the headquarter of the political party from the residence of a senior functionary at Tughlak Road, New Delhi.

Meticulous records of collection and disbursement of cash in the form of hand written diaries, computer files and excel sheets found and seized corroborate the above findings.

Unaccounted cash of Rs 14.6 cr has been found so far, besides 252 bottles of Liquor, few arms and hide-skins of tiger.

The searches in Delhi in the group of a close relative of the senior functionary have further led to seizure of incriminating evidence including cash book recording unaccounted transactions of Rs 230cr, siphoning off money through bogus billing of more than Rs. 242 cr and evidence of more than 80 companies in Tax havens. Several unaccounted/Benami properties at posh locations in Delhi have also been detected.

Instances of violations of Model Code of Conduct are being brought to the notice of ECI.

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CBDT conducts search in the case of Sri Gurappa Naidu

Date – 10.04.2019

The Income Tax Department conducted search on 9th April, 2019 in Vijaywada at the premises of Sri Gurappa Naidu, a cost accountant. An information had been received on toll-free-number that cash was kept at the residence of Shri Gurappa Naidu which was to be used in General Election. It was only at the time of recording his statement late in the night that he revealed that he was giving services to Shri Galla Jayadaev, MP, TDP also in his capacity as a cost accountant. During the course of search, cash of Rs. 45.4 Lakhs was seized being unexplained.

The person searched, Sri Gurappa Naidu is a retired person who is practicing free-lance cost accountancy. No other premise except the residence of Sri Naidu was searched. No premise of the MP candidate Sri Galla Jayadaev was searched.

JUDGEMENTS

INDIRECT TAX

Vadam / Papad made-up of Maida exempted from GST: Tamilnadu AAR

M/s. Subramani Sumathi vs. M/s. Subramani Sumathi

**Order No. z/AAR/2019
Dated 22.01.2019**

Fact of the Case

- The assessee is a manufacturer of Maida/Papad.
- The assessee's application for advanced ruling seek knowledge regarding the rate of tax for vadam made of maida and the HSN code applicable.
- The assessee stated that the items are made of maida, salt, bicarbonate. They stated that the items are at present being sundried and in future they intend to use stove/oven.
- The Applicant was requested to submit further clarification on the manufacturing activities along with related photographs.
- It was also remarked that the end product was not ready for instant consumption and that the buyer had to fry it first in oil in order to consume.

Decision of the Case

- After considering the above fact the authority stated that the product of the applicant namely "Maida Vadam/Papad" is classified under 19050540.
- The Tamilnadu Advance Ruling Authority has exempted Vadam/Papad made of Maida from GST. The order was based upon the application for advanced ruling by one M/s. Subramani Sumathi who are manufacturers of Maida Papad based in washermenpet, Chennai.

Marigold Butterfly Bridal with Watch not classifiable as Jewellery: Gujarat AAR

M/S House of Marigold vs. Gujarat AAR

**Case No. – Guj/GAAR/R/2018/20
Date – 10.10.2018**

Fact of the Case

- The applicant sells jewellery articles in which a watch is fitted. As per the desire and requirement of the customers, the applicant gets the jewellery prepared by artisans.
- After the jewellery is prepared and approved by the customer, a small watch is fitted in it.
- The applicant contended that these items fall under Chapter Heading 7113 which covers articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal.

Decision of the Case

- The authority noted that as Chapter Note 3(l) of Chapter 71 specifically mentions that Chapter 71 does not cover the articles of Chapter 91 (clocks and watches).
- Analyzing the Chapter Heading and Chapter Notes of Chapter 91 of the Customs Tariff Act, 1975, the authority noted that watches of this heading must have cases wholly of precious metal or of metal clad with precious metal, which may be set with gem stones or with natural or cultured pearls and may be fitted with a cover or have a bracelet of precious metal (gem set or not).
- The Authority for Advance Rulings (AAR), Gujarat has held that the product Marigold Butterfly Bridal with Watch and similar jewellery products containing watch not classifiable under the head 'Jewellery' and the same should be assessable as 'Watches' under the heading 9101.

GST Input Tax Credit not allowable on Inward Supplies for Construction of Warehouse West Bengal AAR

Tewari Warehousing Co. Pvt. Ltd. vs. West Bengal AAR

Case No. – 36 of 2018

Date – 11.11.2018

Fact of the Case

- The applicant, supplying warehousing services, is constructing a warehouse on leasehold land, using pre-fabricated technology.
- According to the Applicant, it can be dismantled and reconstructed at a different location.
- He seeks a ruling on whether the input tax credit is admissible on the inward supplies for construction of the said warehouse.

Decision of the Case

- Applicant is constructing a warehouse that is intended to be used as a permanent structure, and associated with beneficial enjoyment of the land on which it is being built.
- The technology used for the construction of the warehouse involves the application of pre-fabricated structures and also civil work for supporting the pre-fabricated structure and developing the floor of the warehouse.
- The warehouse cannot be conceived without beneficial enjoyment of the civil structure embedded on earth. The warehouse being constructed is, therefore, an immovable property, and the input tax credit is not admissible on the inward supplies for its construction, as the credit of such tax is blocked under section 17(5) (d) of the GST Act," it said.

Lower GST applicable to Unstitched Three-Piece Salwar / Churidar Sets: AAR

M/S RamKV Fabrics Pvt. Ltd. vs. Tamilnadu AAR

Case No. – 2/AAR/2019

Date – 21.01.2019

Fact of the Case

- Palayamkottai, Tamil Nadu-based RmKV Fabrics is the applicant here.
- It approached AAR to get an advance ruling on classification of three piece salwar/churidar-kurta-dupatta sets.
- The applicant put forward four models to determine 'fabrics' or 'Article of Apparel.' The first model has unstitched top and bottom where top is merely cut into size. The second model comprises top semi-stitched and bottom unstitched. The third model has top stitched, but bottom unstitched. Finally, the fourth model has top and bottom unstitched, but only the neck portion is cut and design is made — which meant partial stitching. However, in all the cases, the fabrics themselves could have some embroidery work/hemming or embellishments on them.
- The applicant further said the sets in question comprise three pieces of fabric and in some of them certain degree of stitching or neck work is done. These items cannot be worn as such and requires further stitching according to the measurement of the user and then ultimately stitched into a complete set.
- They are essentially in the form of fabric and have not attained the characteristics of an article like a readymade shirt or pant.

Decision of the Case

- The authority clarified that a completely unstitched sets will be classified as 'fabrics' and attract five per cent GST, just embroidery or embellishment will not make any difference to it.
- The Authority for Advance Rulings (AAR), Tamil Nadu has held that a salwar/churidar-kurta set comprising three pieces, top, bottom and dupatta which are just fabric or articles of apparels would attract 5% GST.
- The authority also held that partially stitched churidars will make it 'Article of Apparel' for which 5 % (for sale value less than Rs. 1,000) or 12% (for sale value more than Rs. 1,000) would be applicable.

DIRECT TAX

**ITAT deletes Addition against Tata Sons
assessing Rs 759 crore as Income, Mumbai
Bench**

M/S Tata Sons Ltd. vs. Aaykar Bhavan, Mumbai

Case No. – ITA No. 2519/Mum/2009

Date - 11.03.2019

Fact of the Case

- In the present case Tata Sons Ltd. is the applicant.
- The Company filed its income tax returns for the year 2003-04 declaring an income of Rs. 22 crores. The revenue, however rejected the return and assessed the income to Rs. 759 crores.
- The assessee contended that the additional CIT had failed to establish that he possessed legal and valid jurisdictions under Section 120(4)(b) of the Income Tax Act to pass this order.
- Under the said provision, the additional CIT can exercise the powers of an assessing office only if he is specifically directed by higher authorities.
- Further, section 127(1) provides that a proper order transferring the case needs to be passed by the commissioner, after recording the reasons for doing so.

Decision of the Case

- According to the Tribunal, there was no written order for transfer made available to the ITAT.
- CIT in the absence of a valid order u/s 120(4)(b) as well as section 127(1) of the Act could not have exercised powers of an Assessing Officer to pass the impugned assessment order.
- The Mumbai bench of the Income Tax Appellate Tribunal (ITAT) has quashed an order assessing Rs 759 crore as income in the hands of Tata Sons.

**Condition for Depositing 20% Tax on pending
Appeal is not Rigid One, can't be implemented in
all Cases: Bombay HC**

**Keva Fragrance Pvt. Ltd. vs. Assistant
Commissioner of Income Tax**

Writ Petition No. 554 of 2019

Date - 15.03.2019

Fact of the Case

- In the present case assessee is a person whose return has been selected for scrutiny by the A.O
- The A.O passed an order of assessment u/s 143(3) computing the assessee's total income at Rs.299.92 Crores. This gave rise to a total demand of Rs.137,95,82,948 crores which included tax of Rs.103.72 crores and interest of Rs.34.23 crores.
- The assessee challenged the order by filing an appeal and on the very same day, also filed an application before the AO requesting that till such appeal was disposed of, recovery of tax arising out of the order of assessment could be kept in abeyance.
- The Assessing Officer permitted the same subject to a condition that the assessee should deposit 20% of the outstanding demand.
- Though complied with the requirement of depositing 20% tax, the petitioner contended before the High Court that the condition provided in the CBDT circulars would be wholly unjust.

Decision of the Case

Two Judges Bench of High Court observed the following-

- The Appeal of the Petitioner is pending before the Appellate Commissioner, so not to consider the Petitioner's argument on merit of disallowances threadbare."
- the Petitioner had already deposited advance tax of Rs.11 Crores and TDS of Rs.7,05,288/by the time of filing of the return. The Petitioner has deposited further sum of Rs.1 Crore with the tax department.
- Impugned order passed by the Commissioner does not take into account the sum of Rs.11,07,05,288/, perhaps due to oversight since it appears that the Petitioner may not have brought such facts to his notice.

- A two-judge bench of the Bombay High Court has held that the requirement of 20% pre deposit of tax pending appeal is not rigid one and cannot be implemented in all cases of outstanding dues.

Section 50C can't be applied when Property Sold under Pressure: ITAT

Mrs. Krithika Lingappan vs. ITO

**Case No. – 2959/Chny/2018
 Date – 21.03.2019**

Fact of the Case

- In the present case assessee is the seller of a property who excused the sale deed under compulsion & pressure.
- The total consideration is Rs. 6,00,000.
- The assessing Officer invoked section 50C and made additions accordingly.
- The assessee contended that it is only a distress sale under the circumstance and the Assessing Officer ought to have referred the matter to the valuation officer to find out the actual market value.
- It was also contended that without referring to the valuation officer, adopting the guideline value for estimating the capital gain is not justified.

Decision of the Case

The Tribunal observed the followings -

- The property was sold under pressure and without referring the matter to the valuation officer under section 50C of The Income Tax Act.
- The Assessing Officer himself accepted that the property was sold under pressure.
- This Tribunal is of the considered opinion that the fact and circumstances of the case and the circumstance the assessee executed the sale deed, the apparent sale consideration disclosed in the sale deed has to be considered as market value and the same has to be adopted for the purpose of computing capital gain.
- The Chennai bench of the Income Tax Appellate Tribunal (ITAT) has held that

the provisions of Section 50C of the Income Tax Act, 1961 cannot be applied when the property in question was sold under pressure.

Subsidy Received under Grain Distillery Scheme is Capital Receipt: ITAT Pune Bench

M/S Alkoplus Producers Pvt. Ltd. vs. DCIT

**Case No. – ITA No. 1129/PUN/16
 Date – 03.04.2019**

Fact of the Case

- The assessee, M/s. Alkoplus Producers Pvt. Ltd., is engaged in the manufacturing of extra neutral alcohol from grain (jawaar).
- The Commissioner of Income Tax (Appeals) [CIT(A)] to treat the subsidy received by the assessee from Government of Maharashtra under Grain Distillery Scheme, as a capital receipt.
- Being aggrieved by the decision of the CIT(A) the assessee demanded that the amount of the subsidy should be reduced from the cost of assets for the purposes of depreciation.
- The assessee received subsidy of Rs.6,30,40,000/- during the year under the same scheme as continuing from the preceding year. The Assessing Officer (AO) treated the amount as of revenue character.

Decision of the Case

- Judicial Member Vikas Awasthy and Vice President R.S. Syal while dismissing the appeal of the Revenue and held that "A common submission has been made by both the sides that the facts and circumstances of the instant appeals are mutatis mutandis similar to those of the preceding year.
- The learned Judicial Members uphold the action of the Id. CIT(A) in treating the subsidy as a capital receipt and overturn his view on the question of application of Explanation 10 to section 43(1) of the Act to the facts of the instant case."
- In a series of cross-appeals, The Income Tax Appellate Tribunal (ITAT) Pune on April 4th, ruled that subsidy received under Grain Distillery Scheme should be classified as Capital Receipt.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Date	Return Type
18-04-2019	Form GSTR-4 - Quarterly return for taxpayers opting for Composition Scheme for the quarter January – March 2019.
20-04-2019	Form GSTR-3B for the month of March 2019
20-04-2019	Form GSTR-5 - to be filed by the Non-Resident taxable person & OIDAR for the month of March 19
30-04-2019	Form GSTR-1 - Return of outward supplies of taxable goods and/or services for the Quarter Jan – Mar 2019 (for Assesses having turnover less than 1.5 Cr.) Quarterly Return.
30-04-2019	TRAN-2 - Due date of TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch.

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
- ~~Due date~~ Due date for deposit of Tax deducted by an office of the government for the month of March,

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.

DIRECT TAX CALENDAR - MAY, 2019

07.05.2019

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

15.05.2019

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA & 194-IB in the month of March, 2019
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2019 has been paid without the production of a challan
- Quarterly statement of TCS deposited for the quarter ending March 31, 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 April, 2019

30.05.2019

- Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2018-19
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA & 194-IB in the month of April, 2019

31.05.2019

- Quarterly statement of TDS deposited for the quarter ending March 31, 2019
- Return of tax deduction from contributions paid by the trustees of an approved superannuation fund
- Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect of a financial year 2018-19.
- Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA (1) (k) (in Form No. 61B) for calendar year 2018 by reporting financial institutions.
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2018-19 and hasn't been allotted any PAN.
- Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN.

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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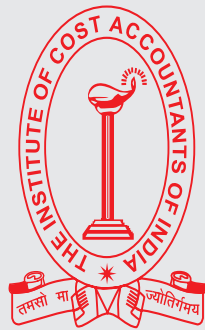
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