

# TAX Bulletin

2<sup>nd</sup>  
*Anniversary!*

**EDITION**



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

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

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

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

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## 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:

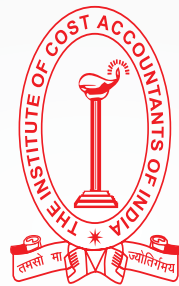
1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to 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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**MEMORANDUM**

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**TAX Bulletin**

**TAXES**

**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

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**INCOME COMPUTATION AND DISCLOSURE STANDARDS AND REPORTING IN A NEW REGIME**

**CHAMRATYUNJAY ACHARJEE**

**Directors and Key experts**

**MEMORANDUM**

**MEMORANDUM**

**MEMORANDUM**

**CELEBRATION OF INAUGURAL SESSION OF CERTIFICATE COURSE ON IIT**

**WESTERN INDIA REGIONAL COUNCIL**

**SOUTHERN INDIA REGIONAL COUNCIL**

**ELECTRONIC WAY BILL FOR TRANSPORT OF GOODS IN GST**

**CHAUHAN V. S. DATTA**

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**TAX Bulletin**

**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**





## PRESIDENT'S MESSAGE

I am happy to acknowledge the immense success achieved by Tax Research Department and all its resource contributors over the past two year and the efforts undertaken in publishing the Tax Bulletin. Great Job!! It was a work of true visionary to introduce this publication of the Tax Bulletin and bringing together a team of passionate enthusiasts who worked hard to promote knowledge and insights in the field of taxation.

India moved forward with the implementation of GST which has brought in a paradigm shift in the Taxation structure of the country. GST brings in a lot of positive changes like eliminating the cascading effect of tax, higher threshold for registration, Composition scheme for small businesses, Simple and easy online procedure, lesser compliances, defined treatment for E-commerce operators, improved efficiency of logistics etc.

Direct Tax Code is knocking the door. The existing Income Tax Act is expected to be replaced with the new DTC. Steps like reducing the Corporate Tax Rate has been announced by the Hon'ble Finance Minister. With the expectation of many changes that are going to be implemented once the DTC is announced, the country will witness a shift from the earlier Direct Tax Structure to a new era where the taxation system will be more simplified. Moving with the new DTC, the Institute has submitted representations and keeping no stone unturned for inclusion of the name of Cost Accountants in definition of "Accountant" under Income Tax Act. Seminars have been conducted across India to celebrate the Direct Tax Month where eminent dignitaries from

Commissionerate & Income Tax Department have participated.

The Tax Bulletin, since its commencement, has addressed and highlighted various glaring issues both in Both Direct and Indirect Taxation. It really needs appreciation that such alluring topics have been thought of and discussed in this forum. Readers would have surely satisfied their hunger by going through the intriguing articles published.

I would also like to congratulate CMA Niranjan Mishra, Chairman - Indirect Taxation Committee for nurturing the "Tax Bulletin", and CMA Rakesh Bhalla, Chairman - Direct Taxation Committee as they both hold this baton of success high. The other members of the Taxation Committee and Tax Research Department of the Institute are also doing a great job for bringing out this publication. Imparting your experience selflessly has made everything go so much smoother. I am optimistic that the bulletin would serve the knowledge interest of the stakeholders in the glorious years to come.

**CMA Balwinder Singh**  
**President**  
**The Institute of Cost Accountants of India**  
**2<sup>nd</sup> October 2019**



## VICE PRESIDENT'S MESSAGE

**C**ongratulations...!! Today, the Tax Bulletin celebrates two years of selfless dedication in the promotion and nurturing of knowledge and talents in the field of Taxation. The bulletin is an invaluable resource for all stakeholders who consider it important to stay abreast of current events in taxation and to be in the know about all the major structural developments in the coming days. Both Direct and Indirect Tax are equally stressed upon in the Bulletin.

GST is the most important development in Taxation front of the Country in last few years which has implemented an integrated scheme of taxation that does not discriminate between goods and services and is a part of the tax reforms that centre on evolving an efficient and harmonized consumption tax system in the country. It is not only GST but also other taxes which are levied required insights. Direct Tax Code (DTC) is the most discussed topic in Taxation Arena nowadays. With the expectation of replacing the age old Income Tax Act, the DTC has taken away all the focus of the tax professionals. All such issues of Direct and Indirect Taxation have been taken up periodically and highlighted in the bulletin. It is great source of information and its intriguing articles clear up the practical doubts in many taxation areas. Again, with Direct Tax Code knocking at the door, the Institute is observing Direct Tax Month through its chapters and regional councils by way of organizing seminars on direct tax with an emphasis on inclusion of Cost Accountants in the "Accountant" definition u/s 288 of the Income Tax Act.

Bringing out the fortnightly bulletin consistently was surely a praise-worthy initiative by Taxation Committee. I am elated to know that the bulletin has proved to be a comprehensive guide to taxation issues and also includes the different principles and policies taxation along with the latest developments, announcements and amendments. This will serve as a very good knowledge and information source.

I congratulate the Tax Research Department and CMA Niranjana Mishra, Chairman- Indirect Taxation Committee and CMA Rakesh Bhalla, Chairman - Direct Taxation Committee for bringing out the "Tax Bulletin". Commendable job by the entire Tax Research Team. I am happy and would like to congratulate other members of the Taxation Committee and knowledge contributors of the Institute for their efforts to bring the bulletin. My best wishes to Taxation Committee for its all future endeavours. Keep soaring high...

*Biswarup Basu*

**CMA Biswarup Basu**  
**Vice President**  
**The Institute of Cost Accountants of India**  
**2<sup>nd</sup> October 2019**



## FROM THE DESK OF CHAIRMAN – INDIRECT TAXATION COMMITTEE

**F**estive season is on... Wish all our readers, members and stakeholders a very Happy Navratri, Durga Puja and Gandhi Jayanti.

Our Tax Bulletin is turning TWO this time and we embark on a new journey in pursuit of knowledge and seeking perfection. So many memories, appreciations and accolades are attached to this journey of last two years. I thank all the article contributors for their knowledge sharing and insights. The department also has its own share of credits with deciphering and representing the Notifications, Circulars, Updates, Tax Calendars and Judgements both in direct Tax and Indirect Tax for understanding of the masses. Every contribution has been so valuable and is solicited in future too.

The Fifth Batch of Certificate Course on GST has commenced all over India. I wish the participants a happy learning. Crash Courses on GST for Colleges and universities has started and going to start soon in various locations like, SBRR Mahajana First Grade College, Mysore, Dwaraka Doss Goverdhan Doss Vaishnav College, Chennai and Umeschandra College, Kolkata.

For updating the knowledge of the stakeholders, Notifications and Recent amendments in Taxation are being uploaded in Website from time to time.

To facilitate the stakeholders in filing their Annual return on GST a number of Seminars and Workshops have been organized by the Institute.

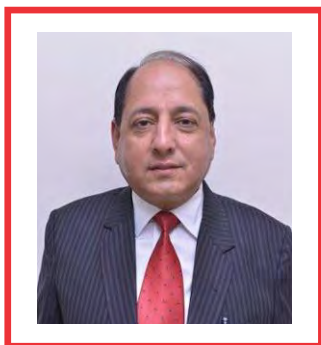
Representations have been submitted by the department, requesting to include CMA in the Tender Notice (Ref No.12 (48)/LC/GST/2016 dt. 5<sup>th</sup> August 2019) of Tea Board for E-filing of GST Returns, TDS, TCS Returns and other related work, in continuation to the earlier representation. Other representations include, Request for inclusion of “Cost Accountants” in the Circular No. 31/2019-Customs dated 13.09.2019 and Inclusion of Cost Accountants for providing the certificate in different matters relating to Customs.

I along with CMA Navneet Jain, got the opportunity to meet Mr. Zubair Riaz, IRS, Director (Customs), Ministry of Finance, Government of India, Department of Revenue to discuss on the role of CMAs’ in Customs and thereby protecting the revenue.

We are optimistic that the hard work and dedication of the department would bore sweet fruits of success.

**CMA Niranjan Mishra**  
**Chairman, Indirect Taxation Committee**  
**2<sup>nd</sup> October 2019**





## FROM THE DESK OF CHAIRMAN – DIRECT TAXATION COMMITTEE

**"First they ignore you, then they laugh at you, then they fight you, then you win."**

**- Mahatma Gandhi**

**O**n the auspicious occasion of 150<sup>th</sup> Birth Anniversary of the Father of the Nation, Mahatma Gandhi Ji, I respectfully remember the above words of Mahatma which inspires us to keep on trying and doing the right things in right direction. Continuing with the same spirit in our professional journey also, I expect all my members to unite and work towards achieving new heights for our prestigious profession.

At the outset, I want to congratulate the Tax Research Department for successfully publishing its 48<sup>th</sup> Tax Bulletin and reaching the milestone of 2<sup>nd</sup> Anniversary edition of the Tax Bulletin on 2<sup>nd</sup> October 2019. It is indeed a matter of pride for us that the Tax Bulletin has become an integral part and one stop information Centre for all tax related issues for the stake holders and importantly the same has been well appreciated by the Government officials also.

Moving forward with the New Direct Tax Code, this is to apprise you that, I got the opportunity to interact with Mr. Akhilesh Ranjan, Member CBDT and Chairman, DTC Task Force Committee on 20<sup>th</sup> September 2019 on the topic of inclusion of Cost Accountants **in the definition of "Accountant"** (as appearing in the

*Explanation below sub-section (2) of section 288 of the Income Tax Act, 1961)*

During the meeting, he informed that our merit points for inclusion were well conveyed to the Task Force Committee and Ministry of Finance but they are of understanding that as proper and detailed understanding of the Financial Statements is required to perform Tax Audit and Cost accountants having expertise in other fields, it works as a major concern behind probable non-inclusion of Cost Accountants. Further, different Institutes were set up by Government so that they can have different areas of specialization instead of duplication / overlapping of work areas.

However, we strongly contended on the above reservations based on our strengths which were included in the presentation already made to them, we re-iterated the same.

Since the DTC is yet to be made available in the public domain, we are keeping a close watch towards all dynamics and situations and keeping no stone unturned for making efforts for inclusion of Cost Accountants in the definition of Accountants.

Beside this, we seek support of every member for taking strong and effective steps for achieving this goal. We are requesting our members to spread awareness among members, students through industry representations and close interaction so that they can also raise the concerns for this cause in their individual capacities.

It was indeed a welcome step by the Institute to observe a Direct Taxation Month throughout India from 5th September 2019 to 5th October 2019 along with the Regional Councils and Chapters with an uniform theme 'Income Tax Act, 1961 and Direct Tax Code – Expectations and Way Ahead' and emphasis on the matter of inclusion of "Cost Accountants" under the definition of "Accountant" u/s sec 288(2) of the Income Tax Act, 1961. This decision was taken in the Direct Taxation and Indirect Taxation Committee meetings dated 31.08.2019 and 01.09.2019.

**Various seminars were organized at our Chapters in relation to observance of Direct Taxation month which are as under-**

*Seminars have been organized by The Erode Chapter, Howrah Chapter, Kharapur Chapter, Serampore Chapter, Indore-Dewas Chapter, Ranchi Chapter, Bhubaneswar Chapter, Guwahati Chapter, Jamshedpur Chapter, EIRC, Rajpur-Sonarpur Chapter, Cuttack Jagatsinghpur and Kendrapara Chapter, Hyderabad Chapter, Bharuch Ankleshwar Chapter, Alalhabad Chapter to observe "Direct Tax Month" and I am expecting such type of continuing initiatives and unity from Chapters and Regions in near future for the betterment of our profession.*

In addition to above, TRD also conducted a seminar on 29<sup>th</sup> September, 2019 at Noida Chapter, where I got the opportunity to interact with members and convey our strong merit points for inclusion of Cost Accountants in the definition of "Accountants" as per Income Tax Act, 1961.

Further, I would like to inform the examination of all the Direct Taxation courses viz. Certificate Course on Return Filing and Certificate Course on TDS, were successfully conducted all across India by the TRD.

I acknowledge the support received from all our members, students in putting our Institute into the track of continuous improvement of the technical competence of the profession. Your continuous support will help the Institute to achieve its objectives. I am pretty optimistic that with these efforts we can show our strength and come out as the leading and most preferred professionals of our Country serving the Government in all its prospects.

**Have an auspicious Navratri and Dussehra!!**

**Jai Hind**



**CMA Rakesh Bhalla**  
**Chairman, Direct Taxation Committee**  
**2<sup>nd</sup> October, 2019**

# TAXATION COMMITTEES 2019 - 2020

## Indirect Taxation Committee

### Chairman

CMA Niranjana Mishra

### Members

1. CMA Rakesh Bhalla
2. CMA P. Raju Iyer
3. CMA V. Murali
4. CMA H. Padmanabhan
5. CMA (Dr.) Ashish P. Thatte
6. CMA B.M. Sharma (Co-Opted)
7. CMA (Dr.) Sanjay Bhargava (Co-Opted)
8. CMA V.S. Datey (Co-Opted)

### Permanent Invitees

CMA Balwinder Singh - President  
CMA Biswarup Basu - Vice-President

### Secretary

CMA Rajat Kumar Basu, Addl. Director

## Direct Taxation Committee

### Chairman

CMA Rakesh Bhalla

### Members

1. CMA P. Raju Iyer
2. CMA Niranjana Mishra
3. CMA V. Murali
4. CMA Paparao Sunkara
5. CMA (Dr.) Ashish P. Thatte
6. CMA Rakesh Sinha (Co-opted)
7. CMA Ajay Singh (Co-opted)
8. CMA Rajesh Goyal (Co-opted)

### Permanent Invitees

CMA Balwinder Singh - President  
CMA Biswarup Basu - Vice-President

### Secretary

CMA Rajat Kumar Basu, Addl. Director

## 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 Bhogavalli Mallikarjuna Gupta	Chief Taxologist & Head of Cloud Business
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 Navneet Kumar Jain	Practicing Cost & Management Accountant
CMA Manmohan Daga	Practicing Cost Accountant
CMA Ajay Deep Wadhwa	Past Chairman – EIRC of ICAI
CMA Niranjana Swain	Advocate, Odisha High Court
CMA Mushtaq Mir	Practicing Cost Accountant
CMA Abhijit Khasnobish	Practicing Cost Accountant

## 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

### SPECIAL ACKNOWLEDGEMENT

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

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



## GST ANNUAL FIGURES FOR 2018-19 TO BE REPORTED IN COST RECORDS/ COST AUDIT ANNEXURES/ REPORTS

**CMA Navneet Kumar Jain**  
Practicing Cost & Management Accountant

Mapping of figures being reported in the GST documents with the other statutory documents has caught the eyes of the taxation authorities. Newspapers are flooded with the news of matching of the data being reported by the corporates in GST returns with other documents. Cost Records and cost audit annexures are some of the documents where the authorities are likely to lay emphasis as apart from GST returns only the cost audit annexures (duly approved by the Board of Directors) are the documents which contain the HSN code-wise data pertaining to the value of supplies, tax rates, taxes payable and paid, reconciliation of Indirect taxes.

As per section 148 of the Companies Act 2013, the specific companies are required to maintain the cost records (having turnover exceeding Rupees Thirty-Five Crores\*) and/or are supposed file Cost Audit Reports (for companies having turnover exceeding Fifty/Hundred Crores\*) with Ministry of Corporate Affairs. It needs to mention that the cost audit annexures are primarily prepared at eight-digit HSN code level showing the cost, sales and profitability for each HSN code.

The Cost Audit Report/Annexures including reconciliation of taxes are required to be approved by the Directors of the company for filing with Ministry of Corporate Affairs. Its high time that the CFOs/GST officials in the organisations take note of it and reconcile all the figures before the filing of the same with the Ministry of Corporate Affairs.

Annexure D6 of Cost Audit Annexures: Reconciliation of Indirect taxes is part of the cost audit annexures and contains the data with regard to indirect taxes. With the implementation of GST, it has become imperative to report the GST figures in the cost audit annexures by the companies under the cost audit. However, owing to certain issues, amended D6 for GST has not been notified till date even after the release of the draft of the same few months back. To keep pace with the changing business environment, Institute of Cost Accountants of India has issued an advisory mandating the cost auditors to report the GST figures in the observations and suggestion columns in the form CRA-3 i.e. cost Audit report.

The advisory issued on 29<sup>th</sup> June 2019 contains the following point also

***The Reconciliation of Indirect Taxes regarding GST should be prepared as per Table given below in Annexure 1. Till such time the new Taxonomy is notified, it is advised that the members may provide the details in the Annexure below under Sl. 2 - Cost Auditors' Observations and Suggestions under "Cost Auditors' Report" at the time of filing in XBRL Mode.***

Reconciliation Of Indirect Taxes (for the Company as a whole)							
PART-D(6)							
	Particulars	Taxable Value/ Assessable Value	Excise Duty, VAT, CST, Cess etc. Other state taxes, if any	CGST	SGST / UTGST	IGST	Cess
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Sl. No.	Duties/ Taxes Payable						
	Excise Duty						
1	Domestic						

2	Export						
3	Stock Transfers						
4	Others, if any						
5	<b>Total (1 to 4)</b>	0	0	0	0	0	0
6	VAT, CST, Cess etc.						
7	Other State Taxes, if any						
	<b>Goods &amp; Services Tax</b>						
8	Outward Taxable Supplies (other than zero rated, Nil Rated and Exempted)						
9	Outward Taxable Supplies (zero rated)						
10	Inward Supplies (liable to Reverse Charge)						
11	Other Outward Supplies (Nil Rated, Exempted)						
12	Non-GST Outward Supplies						
13	<b>Total (8 to 12)</b>	0	0	0	0	0	0
14	<b>Total Duties / Taxes Payable (5+6+7+ 13)</b>	0	0	0	0	0	0
	<b>Duties/ Taxes paid [by Utilisation of Input Tax Credit and Payment through Cash Ledger, as the case may be]</b>						
	<b>GST - Input Tax Credit Utilised</b>						
15	CGST/CENVAT						
16	SGST / UTGST/VAT						
17	IGST						
18	Cess						
19	Transitional Credit						
20	<b>Total Input Tax Credit Utilised (15 to 19)</b>	0	0	0	0	0	0
21	Payment through Cash Ledger						
22	<b>Total Duties/Taxes Paid (20 + 21)</b>	0	0	0	0	0	0
	<b>Difference between Taxes Paid and Payable (14 - 22)</b>	0	0	0	0	0	0
23	Interest/Penalty/Fines Paid						



## NOTICES UNDER GST

**CMA Manmohan Daga**  
Practicing Cost Accountant

### Background

As per the Cambridge English Dictionary, "Notice" means 'to see or become conscious of something'; 'to bring someone to the attention of'; 'information or a warning given about something that is going to happen in near future'.

With the structure of GST legislation being centred around self-assessment and self-certification by the taxpayer, and with the focus on procedure-based legislation, it was important for the Government to bring out provisions of law to seek both proactive and reactive attention of the taxpayer in matters relating to compliances. With focus on e-governance and digitalisation, the need to have these incorporated in the system was also the need of the hour. Ability, Agility and Accuracy were the 3 Aces required.

In order to achieve this, the overall structure underwent a revamp to include not only inform the taxpayers of the defaults, but also sending reminders to caution taxpayers of any default being noticed. It also included cases where regular information was to be sought from the taxpayers.

### Provisions of the Law

Notices under GST are communications by the GST Authorities. A notice so issued, depending upon the purpose or gravity of default or action required from the taxpayer, can be called by different names e.g. Show Cause Notice (SCN), Scrutiny Notice or Demand Notice.

GST authorities act based on any hints collected on scrutinising taxpayer's GST Returns or based on information received from another Government department/ third parties. A few common grounds for receiving notices relating to lapses/ defaults on

the part of the taxpayers are - not registering under GST when otherwise required under law, non-filing or any delay in filing of GST returns, non-payment of GST or short payment of GST, excess Input tax credit claims, etc.

In other cases, GST authorities send reminders to the taxpayers requiring them to comply with specific provisions of the law. A few examples are - not filing Part B of registration form within the specific timeline, not filing desired returns on time etc.

A taxpayer must promptly act or reply to notices within the time limit specified in such notice. Any failure to do so can land the taxpayer in a legal soup. In such eventuality, the authorities can proceed to impose penal provisions, including and not limited to penalty as well as prosecution.

### Notices under GST

Some of the frequent reasons of receiving GST notice,

- Liable but has failed to obtain GST registration.
- Delay in filing of GSTR-1 and GSTR-3B consecutively for more than six months
- Mismatch in details reported between GSTR-1 & GSTR-3B
- Inconsistent declaration in GSTR-1 and e-way bill portal
- Differences in Input tax credit claims made in GSTR-3B vis-a-vis GSTR-2A
- Non-payment of GST liability/ short-payment of the tax with or without the intent to defraud
- GST Refund wrongly claimed with or without the intent to defraud
- Anti-profiteering - Non-reduction of prices due to reduced GST Rates
- Information return required to be furnished before tax authorities, but not submitted within the time limit stipulated.

Following is the list of Notices as issued under the GST laws.

Sl. No.	Name of Notice (Form)	Section of Law (CGST Act/ Rules)	Description	Action to be taken	Time limit to respond	Consequence of not responding
1	REG-03	Rule 9(2)	Clarification required on the information provided in the new registration application or amendment of GST registration	Reply, in form REG-04 with clarification, information and document,	Within 7 working days from the date of receiving the notice	Rejection of the application (inform the applicant electronically in

				if any		form REG-05).
2	REG-17	Rule 22(1)	SCN on why the GST registration not be cancelled	Reply, in form REG-18 with the reasons	Within 7 working days from the date of receiving the notice	Cancellation of GST registration (issuance of form REG-19)
3	REG-23	Rule 23(3)	SCN on why the cancellation of GST registration must be revoked for the reasons laid down in the notice	Reply in form REG-24	Within 7 working days from the date of receiving the notice	Cancellation of GST Registration will be revoked
4	REG-27	Rule 24(3)	For cases relating to migration into GST from VAT regime, for not making application after obtaining provisional registration or not giving correct or complete details therein	Reply by applying in REG-26 and appear before the tax authority giving reasonable opportunity to be heard	None prescribed	Cancellation of provisional registration (in form REG-28)
5	GSTR-3A	Rule 68	Default notice to non-filers of GST returns in GSTR-1 or GSTR-3B or GSTR-4 or GSTR-8	File GST Returns along with late fees and interest, if any	15 days from the date of receiving notice	Best judgement basis assessment by Dept. including penalty u/s 122
6	CMP-05	Rule 6(4)	SCN on eligibility to be a composition dealer	Necessary justification in form CMP-06	15 days of receipt of the notice	Penalty u/s 122 plus order (in form CMP-07) denying the benefit of the scheme
7	PCT-03	Rule 83(4)	SCN for misconduct by the GST practitioner	Necessary justification	Within time prescribed in the SCN	Cancellation of the license as GST practitioner
8	RFD-08	Rule 92(3)	SCN on rejection of GST refund made	Reply in form RFD-09	Within 15 days of receipt of notice	Rejection order (in form RFD-06)
9	ASMT-02	Rule 98(2)	Additional Information for provisional assessment under GST	Reply (in form ASMT-03 along with documents	Within 15 days of the service of the notice	Application may be rejected
10	ASMT-06	Rule 98(5)	Additional information for final assessment under GST	Reply (in form ASMT-03 along with documents	Within 15 days of the service of the notice	Order, in form ASMT-07 may be passed ex-parte
11	ASMT-10	Rule 99(1)	Notice for intimating discrepancies in the GST return after scrutiny	Reply in form ASMT-11 giving reasons for discrepancies	Within the time prescribed in the SCN or 30 days from the date of service of notice	Ex-parte assessment
12	ASMT-14	Rule 100(2)	SCN – Assessment u/s 63 (best judgement assessment)	Appearance before the concerned authority	Within 15 days of the notice	Assessment order in form ASMT-15
13	ADT-01	Rule 101(2)	Notice for conducting Audit u/s 65	Attend in person and/ or produce records	Within the time prescribed in the notice	Deemed that the taxpayer doesn't possess necessary records and proceedings shall be initiated accordingly.



14	RVN-01	Rule 109B	Notice u/s 108 issued by revisional authority	Reply within prescribed time and/ or appear before the authority	Within 7 working days of the serving of the notice	Ex-parte judgement
15	DRC-01	Rule 100(2) & Rule 142(1)(a)	SCN for demand of tax (served along with DRC-02)	Reply, in form DRC-06. Payment in form DRC-03	Within 30 days of the notice	Order passed with available details
16	DRC 10	Rule 144(2)	Notice for Auction of Goods u/s 79(1)(b)	Pay outstanding demand as per form DRC-09	As specified in the notice	Proceed with auction and sale
17	DRC-11	Rule 144(5) & Rule 147(12)	Notice to the successful bidder	Pay the bid amount	Within 15 days from the date of auction	Re-auction
18	DRC-13	Rule 145(1)	Notice to a third person u/s 79(1)(c)	Deposit the amount specified in the notice and reply in form DRC-14	Not Applicable	Deemed to be a defaulter
19	DRC-16	Rule 147(1)& Rule 151(1)	Notice for attachment and sale of immovable/movable goods/shares u/s 79	Refrain from transferring/ creating charge on the assets	Not applicable	Prosecution and penalties

### Mode of sending GST Notices

Section 169(1) of the CGST Act, 2017 states the different means of communicating the notices by the Department. The notice, so issued, may be sent to the taxpayers through,

- Hand-delivered either directly or by a messenger, including by a courier, to the taxpayer or his representative (manager, advocate, family member etc.)
- By registered post or a speed post or a courier with an acknowledgement due, addressed to the last known place of the business of the taxpayer.
- Communication to the email address provided at the time of registration, as amended from time to time.
- Making it available on the GST portal after logging in.
- By publication in a regional newspaper being circulated in the locality of the taxpayer based on the last known residential address.
- If none of the above means is used, then by affixing it in some prominent place at his last known place of business or residence. If this is not found as reasonable by the tax authorities, they can affix a copy on the notice board of the office of the concerned officer or authority as a last resort.

Thus, the taxpayer need not act upon the notice or communication if it is received in any other modes apart from what is notified by GST law from time-to-time.

### Closing the loop

With the emphasis on reduction in documentation (in physical paper form) through digitalisation and reducing personal interaction with Department, the GST system has been designed so that all replies to the GST notices can be submitted online on the GST portal.

Where the notice issued warrants payment of tax and interest, payment of such liability in the requisite form and manner is a prerequisite. After such payment, the reply letter in requisite form, along with documents, if any, must be submitted before the tax authority who sent notice. A taxpayer can use the digital signature or e-signature of the authorised personnel of such taxpayer or himself to file such reply.

A taxpayer can also authorise another representative to look into the matters related to GST notices. He can do so, by issuing Letter of Authorisation under GST. GST authorisation letter gives the power of replying to GST notices by another representative and taking action on behalf of him.

In case the taxpayer receiving the GST notices does not reply within the stipulated time limit, he shall be liable for penalties, which may include prosecution, and further proceedings as per the provisions of the GST law. So, it is always advisable to be on the 'right' side of the law so that one is not 'left' out.



# GST COMPENSATION CESS

**CMA Ajay Deep Wadhwa**

Cost Accountant (CMA) – Fellow member of ICMAI &

Past Chairman- Eastern India Regional Council of ICWAI (Now ICMAI)

**D**uring the process of introduction of GST in India from 1<sup>st</sup> July'2017, the Central Government was trying everything to bring all political parties and state Governments on board. Many State Governments were afraid of possible financial losses to their respective states due to shift in GST regime.

Therefore, Goods and Services Tax (Compensation to States) Act, 2017 was enacted to levy Compensation cess for providing compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax with effect from 01/07/2017. This Cess is applicable on certain notified items (time to time) for a period of five years or for such period as may be prescribed on the recommendations of the GST Council.

### GST Compensation cess in case of Composition scheme

Compensation cess shall not be leviable on supplies made by a taxable person who has decided to opt for composition levy.

### Input Tax Credit

The input tax credit in respect of compensation cess on supply of goods or services can be utilised only towards payment of the compensation cess on supply of goods or services. It means ITC of GST is not available on paid amount of Compensation cess or vice versa.

### Valuation if Cess to be levied on value

In case the compensation cess is chargeable on any supply of goods or services or both with reference to their value, then for each such supply, the value has to be determined under section 15 of the Central Goods and Services Tax Act, 2017. For the example, if the assessable value of goods imported into India is Rs. 100/-, GST rate is 18% and customs duty is 10%. If the goods attract GST Compensation Cess, then GST Compensation Cess would be levied on Rs. 110/-, as Compensation Cess is not levied on IGST.

In many cases, GST Compensation Cess is applicable not on value but on quantity supplied. For the example, Government has levied compensation cess of Rs. 400.00 per tone of supply of coal.

### Compensation Cess in case of import / export

The compensation cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975. Compensation Cess will not be charged on goods exported by an exporter under bond and the exporter will be eligible for refund of input tax credit of Compensation Cess relating to goods exported.

### Laws and Rules applicable

The provisions of the Central Goods and Services Tax Act, 2017 and the rules made there under, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall apply in relation to the levy and collection of the cess on the intra-State supply of goods and services. Similarly, in case of inter-State supplies the provisions of the Integrated Goods and Services Tax Act, and the rules made there under will apply.

### GST Compensation Cess Rate with notified items

Name of Goods or Service	HSN Code	GST Cess
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Pan Masala	2106 90 20	60%
<b>Aerated waters, containing added sugar or other sweetening matter or flavoured</b>		
Aerated waters	2202 10 10	12%
Lemonade	2202 10 20	12%
Others	2202 10 90	12%
<b>Tobacco and Tobacco Products</b>		
Unmanufactured tobacco bearing a brand name	2401	65%
Tobacco refuse, bearing a brand name	2401 30 00	61%
Chewing tobacco (without lime tube)	2403 99 10	160%
Chewing tobacco (with lime tube)	2403 99 10	142%
Filter khaini	2403 99 10	160%
Jarda scented tobacco	2403 99 30	160%
Pan masala containing tobacco 'Gutkha'	2403 99 90	204%
<b>Cigarettes</b>		
Non- filter		
Not exceeding 65 mm	2402 20 10	5% + Rs.1591 per thousand
Exceeding 65 mm but not 70 mm	2402 20 20	5% + Rs.2876 per thousand
Filter		
Not exceeding 65 mm	2402 20 30	5% + Rs.1591 per thousand
Exceeding 65 mm but not 70 mm	2402 20 40	5% + Rs.2126 per thousand
Exceeding 70 mm but not 75 mm	2402 20	5% + Rs.2876

	50	per thousand
Others	2402 20 90	5% + Rs.4170 per thousand
<b>Other Tobacco Products</b>		
Cigar and cheroots	2402 10 10	21% or Rs. 4170 per thousand, whichever is higher
Cigarillos	2402 10 20	21% or Rs. 4170 per thousand, whichever is higher
Cigarettes of tobacco substitutes	2402 90 10	Rs.4006 per thousand
Cigarillos of tobacco substitutes	2402 90 20	12.5% or Rs. 4,006 per thousand whichever is higher
Other	2402 90 90	12.5% or Rs. 4,006 per thousand whichever is higher
Hookah' or 'gudaku' tobacco tobacco bearing a brand name	2403 11 00	72%
Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku'	2403 11 00	17%
Other smoking tobacco not bearing a brand name.	2403 11 90	11%
Smoking mixtures for pipes and cigarettes	2403 19 10	290%
Other smoking tobacco bearing a brand name	2403 19 90	49%
Other smoking tobacco not bearing a brand name	2403 19 90	57%
"Homogenised" or "reconstituted" tobacco bearing a brand name	2403 91 00	72%
Preparations containing chewing tobacco	2403 99 20	72%
Snuff	2403 99 40	72%

Preparations containing snuff	2403 99 50	72%
Tobacco extracts and essence bearing a brand name	2403 99 60	72%
Tobacco extracts and essence not bearing a brand name	2403 99 60	65%
Cut tobacco	2403 99 70	20%
All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name	2403 99 90	96%
All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name	2403 99 90	89%
<b>Other Products</b>		
Coal; briquettes, ovoids and similar solid fuels manufactured from coal.	2701	Rs.400 per tonne
Lignite, whether or not agglomerated, excluding jet	2702	Rs.400 per tonne
Peat (including agglomerated)	2703	Rs.400 per tonne
<b>Motor Vehicles</b>		
Motor vehicles (10<persons <13)	8702	15%
Small Cars (length < 4 m ; Petrol<1200 cc )	8703	1%
Small Cars (length < 4 m ; Diesel < 1500 cc)	8703	3%
Mid Segment Cars (engine < 1500 cc)	8703	15%
Large Cars (engine > 1500 cc)	8703	15%
Sports Utility Vehicles (length > 4m ; engine > 1500 cc; ground clearance > 170 mm)	8703	15%
Mid Segment Hybrid Cars (engine < 1500 cc)	8703	15%
Hybrid motor vehicles > 1500 cc	8703	15%
Hydrogen vehicles based on fuel cell tech > 4m	8703	15%
Motorcycles (engine > 350 cc)	8711	3%
Aircrafts for personal use.	8802	3%
Yacht and other vessels for pleasure or sports	8903	3%



## DEDUCTION OF INCOME TAX AT SOURCE UNDER SECTION 194 C OF INCOME TAX ACT 1961, FROM YEAR END PROVISIONS MADE IN THE ACCOUNTS

**CMA Niranjana Swain**  
Advocate, Odisha High Court

### 1. BACKGROUND

**M**aintenance of Books of Accounts is one of the mandatory compliances that every business assessee including company needs to follow.

1.1 Section 128 of the Companies Act 2013 provides that books of account are required to be kept on an accrual basis and based on the double entry system of accounting to represent a true and fair view of the company's state of the affairs or its branches. As per Section 145 of the Income Tax Act, any assessee having taxable income under the heads "**Profits and gains from business or profession**" or "**Income from Other Sources**" has to compute their taxable income in accordance with cash or mercantile system of accounting. Furthermore, the section states that the Central Government may notify from time to time if it is to be followed by any class of taxpayer or in any class of income. Accordingly the assessee who are computing their taxable income on accrual basis is required to maintain the books of account under accrual system. Ind. AS - 37 / AS -29 provides for to recognise a provision for expenses when an entity has a present obligation (legal and constructive) arising out of a past event and it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation. So from above brief provisions narrated, it is concluded that the assessee who is maintaining the books of accounts under accrual system is required to make provisions for expenses at the year end to close books of accounts and preparation of financial statement.

1.2. Section 190 of Chapter XVII of Income Tax Act, 1961 provides for deduction / collection of tax at source while making certain payments to the payee. While making provisions for expenses many of the expenses are accounted on reliable estimate basis as well as many cases the expenses is accrued but payable at a later date but at the time of accrual and making provisions in the books of accounts the payee is not ascertainable / details as required under income tax is not available.

- i) The present article discuss, whether the payer is liable to deduct income tax at source from the year end provision of expenses when the details of payee as required is not available / not ascertainable. To have a focused discussion, a case study has been produced below which will be taken for analysis

### 2. CASE STUDY:

XYZ Ltd is a company (here in after a Company) incorporated under the Company Act, 2013. The Company is inter alia engaged in manufacture of industrial products & have its manufacturing units at Bhubaneswar. During course of business, it engages man power supply contractor with a rate per day mutually agreed. The cost of contract for labour includes basic wages, holiday wages, over time wages, establishment expenses, PF, ESI, bonus & gratuity etc. While all the elements are claimed by the contractor being paid in a regular interval, only bonus is claimed on yearly basis. However, gratuity being a payment only at the time of retirement of contract labour, the same is only to be claimed very occasionally and only to be claimed by the contractor during whose period the contract employee retires.

The Company is making provision for gratuity as per actuarial valuation for the contract labourers engaged by contractors. Since gratuity is a future liability, the actuarial valuation is done considering certain assumptions like future hike in wages, retirement age, mortality rate, discount rate etc. & the assessed value is basically the present value of future obligation. The gratuity liability is credited to a separate A/c head "provision for gratuity - contractual employees".

As per the payment terms of contract, the gratuity amount will be reimbursed to contractor only when it is paid to the contract labour. Thus, the income will accrue in the hands of the contractor at the time of raising bill for gratuity after payment to the contract labour. Moreover since there may be changes in Contractor but the contract labour shall continue and such payment will be made by the contractor who continue during the retirement of contract labour.

On the above facts, it is my view that the present contract on which gratuity liability accounted as "provision for

gratuity – contractual employees” is a purely labour contract covered under section 194C of income tax act. Before concluding the deduction of tax at source u/s 194C, let us examine applicability of income tax deduction at source on the gratuity liability of contract labours which is credited to a separate A/c head “provision for gratuity – contractual employees” in compliance to provisions of income tax act and rule there under.

### 3. LEGISLATIVE FRAMEWORK, JUDICIAL PRONOUNCEMENTS

3.1. Chapter II of the Income Tax Act, 1961 contains the provisions with respect to the basis of charge of income tax. Section 4 of the Act is the charging Section and reads as under:-

#### 3.1.1. Section 4 of Income TAX Act, 1961 - Charge of income-tax.

*(1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions (including provisions for the levy of additional income-tax) of, this Act in respect of the total income of the previous year of every person:*

*Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.*

**(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act."**

It is apparent from the plain language of Section 4(1) that income tax is charged in respect of the total income of the previous year of every person. Whilst total income is the basis of the charge of income tax and also the basis of the impose, the liability imposed is on the person whose total income is subjected to tax. Thus, the levy may be in respect of total income of a person but the tax is levied on the person so earning the income.

**It may be concluded that, for any charge to be sustained under the Act, it is essential that**

**(a) there is an assessee whose income would form the basis of the charge; and**

**(b) there is income which is subject to tax under the provisions of the Act.**

3.2. Since we assumed the expenses provisioned at the yearend on which tax at source to be deducted under section 194C, of Income Tax Act, 1961, the relevant Provision is produced below for further analysis.

#### 3.2.1. Section 194 C- Payments to contractors.

*(1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—*

*(i) one per cent where the payment is being made or credit is being given to an individual or a Hindu undivided family;*

*(ii) two per cent where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,*

*of such sum as income-tax on income comprised therein.*

**(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.**

3.3. Further Section 190 of the Act provides for deduction of tax at source in accordance with the provisions of Chapter XVII. **Sub-section 2 of Section 190 makes it clear that the provisions of Sub-section 1 of Section 190 would not prejudice the charge of tax under the provisions of Section 4(1) of the Act.**

In case of *UCO Bank v. Union of India* [2014] 369 ITR 335/51 taxmann.com 253/[2015] 228 Taxman 141, Hon'ble Delhi High Court clearly held as follows:

“Therefore, when a general provision is made without crediting the interest to the accounts of identifiable payees, the credit of interest to such account is not a credit to an account of a person who is liable to be assessed to tax. In this view, the petitioner would have no obligation to deduct tax, because at the time of credit there is no person assessable in respect of that income which may be represented by the interest accrued/paid in respect of the deposits. The words "credit of such income to the account of the payee" occurring in Section 194A of the Act have to be ascribed a meaning in conformity with the scheme of the Act and that would necessarily imply that deduction of tax bears nexus with the income of an assessee”.

**In absence of an assessee, the machinery provisions for deduction of tax to his credit are ineffective. The expression "payee" under Section 194A would mean the recipient of the income whose account is maintained by the person paying interest.**

It is apparent that in absence of an ascertainable assessee, the machinery of recovering tax by deduction of tax at source breaks down because it does not aid the charge of tax under Section 4 but takes a form of a separate levy, independent of other provisions of the Act. This is, clearly, impermissible

**The above principles and decision also equally applicable to tax deduction at source under section 194C.**

**3.4. In case of Dishnet Wireless Ltd. v. Dy. CIT[2015] 60 taxmann.com 329/154 ITD 827 (Chennai - Trib.), it was held that**

*“Section 194C of the Income-tax Act, 1961 - payments to Contractors/sub-contractors, (Telecommunication services) - Where assessee-telecom operator made provision for dismantling towers and restoration of site to its original position after termination of lease period and the ultimate payees could not be identified on the last day of the financial year, it was not required to deduct tax at source while making said provision. However, where assessee made 'year-end provisions' in respect of various services like address verification, credit certification, content development, etc. on estimate basis, wherever particulars and details of payees were available and amount payable could be quantified, assessee had to necessarily deduct tax at source”*

**3.5. In case of Apollo Tyres Ltd. v. Dy. CIT [2017] 78 taxmann.com 195/163 ITD 177 (Delhi - Trib.)it was held as**

*“Section 199 of the Income-tax Act, 1961 - Deduction of tax at source - Credit for tax deducted (General) - Identification of person from whose account income-tax is deducted at source is a pre-requisite condition so as to make provision of Chapter XVII-B workable. When tax deductor cannot ascertain payee who is beneficiary of a credit of tax deduction at source, mechanism of Chapter XVII-B cannot be put into service. Where assessee could not have ascertained identity of payees when provision of expenditure under several heads of income at year end was made, assessee was not required to deduct tax at source in respect of such provision”.*

**3.6. Industrial Development Bank of India v. ITO [2007] 107 ITD 45 (Mum.)**

*“Under the Act, tax is on the income and it is in the hands of the person who receives such income.....A plain reading of section 190 and section 191, which are first two sections under the Chapter XVII, and of sections 199, 202 and 203(1), would show this underlying feature of the tax deduction at source mechanism. The whole scheme of tax deduction at source proceeds on the assumption that the person whose liability is to pay an income knows the identity of the beneficiary or the recipient of the income. It is a sine qua non for a vicarious tax deduction liability that there has to be a principal tax liability in respect of the relevant income first, and a principal tax liability can come into existence when it can be ascertained as to who will receive or earn that income, because the tax is on the income and in the hands of the person who earns that income. **Therefore, tax deduction at source mechanism cannot be put into practice until identity of the person in whose hands it is includible as income can be ascertained.***

*.....Accordingly, no tax was required to be deducted at source in respect of the provision for interest payable made by assessee which reflected provision for interest accrued but not due” in a situation where the ultimate recipient of such 'interest accrued but not due' could not have been ascertained at the point of time when the provision was made”*

**3.7. Alliance Media & Entertainment Ltd. v. ITO (TDS)[2017] 79 taxmann.com 114 (Mum. - Trib.)it was held that**

*The payees in the present case were not identifiable. Therefore, in the absence of the details of the beneficiaries of the credit, as well as the respective amounts of credits remaining unascertainable. The tax deduction mechanism could not have been pressed into service because the liability of tax deduction at source is in the nature of a vicarious or substitutionary liability which presupposes existence of a principal or primary liability.*



*Thus, in the backdrop of the aforesaid settled position of law, when in the case of the present assessee the amounts to be paid to the artists had not been ascertained and was a subject matter of negotiations and under consideration, it could safely be concluded that neither the artists, i.e., payees qua the amounts to be paid were identifiable, nor the amounts to be paid stood crystallized. **Therefore, in the absence of any identifiable payee or the quantification of the duly ascertained amount of the liability, the provisions of TDS could not have been made applicable. Thus, to be brief and explicit, if no income is attributable to the payee, there is no liability to deduct tax at source in the hands of the tax deductor.***

3.8. *Pfizer Ltd. v. ITO (TDS)*[2012] 28 taxmann.com 17/[2013] 55 SOT 277 (Mum.) it was held that

*“As the provision was made without making specific entries into the accounts of the parties and the payee was not identifiable, the TDS provisions are not applicable. The whole scheme of TDS proceeds on the assumption that the person whose liability is to pay an income knows the identity of the beneficiary or the recipient of the income. The TDS mechanism cannot be put into practice until identity of the person in whose hands it is includible as income can be ascertained (Industrial Development Bank of India v. ITO[2007] 107 ITD 45 (Mum) - followed)”*

3.9. Besides above it further examined that, the identity of the ultimate beneficiary (payee) and the precise amount payable to the payee are the prerequisites to press the TDS provisions into service. In other words, if no income is attributable to the identifiable payee, there is no liability to deduct tax at source in the hands of the tax deductor. **In compliance part practice also, the deductor has to issue Form 16A prescribed under Rule 31(1)(b) of the Income-tax Rules, 1962 for the tax deducted at source after filing required returns under TDS. The assessee has to necessarily give the details of name and address of deductee, the PAN of deductee and amount paid or credited.**

In case, the deductor could not identify the name, address, PAN of deductee and not in a position to quantify the amount payable, the provision which requires deduction of tax at source fails. Hence, the assessee cannot be faulted for non-deduction of tax at source while making such general provisions. However the Assessee while computing income from business or profession shall require to ensure compliance of section 40(a)(i)(ia). Once the assessee makes voluntary disallowance u/s.40(a)(i)/(ia) for non-deduction of tax at source, he cannot be subject to TDS provisions again so as to make the assessee liable to pay the tax u/s. 201 and interest u/s. 201(1A).

#### **4. CONCLUSION:**

Having analysed and dwelt upon the relevant legislative provisions and judicial pronouncements, the conclusions are as follows.

*In the absence of any identifiable payee or the quantification of the duly ascertained amount of the liability, the provisions of TDS could not be made applicable. Thus, to be brief and explicit, if no income is attributable to the payee (i.e. the Contractor), there is no liability on the part of the Company to deduct tax at source on such provisions of gratuity of contract labour accounted under -A/c head “provision for gratuity – contractual employees” in the books of accounts of XYZ Ltd . However while computing income from business or professions of XYZ Ltd, the amount of expenses provisioned at the yearend on which tax has not been deducted at source to be taken as disallowance in compliance to section 40(i)(ia) of Income Tax Act, 1961.*



## CORPORATE TAX CUT A BOOSTER DOSE TO THE ECONOMY

**CMA Mushtaq Mir**  
Practicing Cost Accountant

Having a close watch and monitoring to the economic growth of the country and way forward to the vision of Honorable Prime Minister of the 5 trillion economy, Union Government announced a slew of tax exemptions at the GST Council Meeting.

Government slashed corporate tax rate for domestic companies and new local manufacturing companies through an ordinance. This was done at the right time when Honorable Prime Minister was on his historic visit to the United States to negotiate investment deals and to offer a very reliable and tax friendly environment to the foreign investors in India.

To do so the government slashed effective corporate tax to 25.17 per cent inclusive of all cess and surcharges for domestic companies. The new tax rate will be applicable from the current fiscal year 2019-20.

In effect, the corporate tax rate will be 22 per cent for domestic companies, if the assessee do not avail any incentive or concession. The changes in the Income Tax Act and Finance Act have been made effective through an ordinance passed very recently. The companies opting for 22 per cent income tax slab would not have to pay minimum alternative tax (MAT).

With this reform new domestic manufacturing companies incorporated after October 1, can pay income tax at a rate of 15 per cent without any incentives, meaning, the effective tax rate for new manufacturing companies will be 17.01 per cent inclusive of all surcharge and cess. There are other measures also that the government has decided not to levy enhanced surcharge introduced in Budget on capital gain arising from the sale of equity shares in a company liable for securities transaction tax (STT). In another relief, the companies which have announced a buyback of shares prior to July 5, will not be charged with super-rich tax. The companies have now also been permitted to use their 2 per cent CSR spend on incubation, IITs, NITs, and national laboratories.

This is expected to result a revenue impact of be approx. Rs 1.45 lakh crore annually. This, has been done to promote investment and growth in the country. It is clear and right stand of the government to incentivize the economy so that the benefit of the tax cut will reach directly to the economy and that too much early than otherwise it could pass through the

government after collection of taxes. Tax concession of this nature will bring investments in Make in India, boost employment and economic activity, leading to more revenue, which is expected to go quite consistent with the vision of forecasting economy at a level of five trillion.

The new corporate tax cuts are expected to boost economic growth and ultimately a good contribution to the GDP of the Country. This will impact India's fiscal deficit but the close monitoring of the economy by the government which is a positive sign under current circumstances is important that a corrective action will be taken at the right time. What is important and credit worthy that the economy is being watched and monitored properly. This tax cut is over whelmed by both red Sensex and Nifty with green and smiling colours immediately after the announcement by the Government. This is further welcomed by the Maruti Suzuki India Ltd with an immediate price cut which will result more happiness to the auto buyers this fiscal and festive.

I urge for a slight tax rate cut of Individuals comprising of salaried class and sole proprietary concerns for further incentivizing economy, leading increase in purchasing power and more in the pockets of the individual consumers for spending further for a quite early colorful festive time this **DIWALI**.

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## GOODS AND SERVICES TAX

### Central Tax Notification

#### Notification No. 42/2019 – Central Tax

Date – 24.09.2019

Seeks to bring rules 10, 11, 12 and 26 of the CGST (Fourth Amendment) Rules, 2019 in to force

CBIC has appointed 24th September, 2019, as the date on which the provisions of rules 10, 11, 12 and 26 of the Central Goods and Services Tax (Fourth Amendment) Rules, 2019 has come into force.

#### Notification No. 43/2019 – Central Tax

Date – 30.09.2019

Seeks to amend notification No.14/2019- Central Tax dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.

CBIC has made amendments in the Notification No.14/2019-Central Tax, dated the 7th March, 2019. In the said notification, in the table, after Sl. No. 2 and the entries thereto, the following Sl. No. and entries shall be inserted, namely:

"2A.	2202 10 10	Aerated Water".
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This notification has come into force on the 1st day of October, 2019.

### Central Tax (Rate) Notification

#### Notification No. 14/2019-Central Tax (Rate)

Date – 30.09.2019

Seeks to amend notification No.1/2017- Central Tax (Rate) dated 28.6.2017 so as to specify effective CGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019.

CBIC has made amendments in the Notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017.

For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2019-cgst-rate-english.pdf;jsessionid=AC46A9DF42185C6FD4F0E7865D500637>

#### Notification No. 15/2019-Central Tax (Rate)

Date – 30.09.2019

Seeks to amend notification No.2/2017- Central Tax (Rate) dated 28.6.2017 so as to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants.

The notification seeks to amend notification No 2/2017- Central Tax (Rate) dated 28.6.2017 so as to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants. This notification shall come into force on the 1st day of October, 2019

#### Notification No. 16/2019-Central Tax (Rate)

Date – 30.09.2019

Seeks to amend notification No.3/2017- Central Tax (Rate) dated 28.6.2017 so as to extend concessional CGST rates to specified projects under HELP/OALP and other changes.

This notification seeks to amend notification No 3/2017- Central Tax (Rate) dated 28.6.2017 so as to extend concessional CGST rates to specified projects under Hydrocarbon Exploration Licensing Policy (HELP) Open Acreage Licensing Policy (OALP), and other changes.

This notification shall come into force on the 1st day of October, 2019.

In the ANNEXURE, against Condition No. 1, in clause (e), the following proviso shall be inserted, namely: -

“Provided that where the said goods so supplied are sought to be disposed of in non-serviceable form, after mutilation, the recipient of outward supply or the transferee, as the case may be, may at his option, pay the tax at the rate of 9 per cent. on transaction value of such goods subject to the condition that the recipient of outward supply or the transferee, as the case may be, produces before the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, a certificate from a duly authorized officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods are non-serviceable and have been mutilated before disposal.”

**Notification No. 17/2019-Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.26/2018- Central Tax (Rate) dated 31.12.2018, so as to exempt CGST on supplies of silver and platinum by nominated agencies to registered persons.~~

The notification aims to amend notification No 26/2018- Central Tax (Rate) dated 31.12.2018, so as to exempt CGST on supplies of silver and platinum by nominated agencies to registered persons.

In the said notification, - (i) for the word “gold”, wherever it occurs, the words, “gold, silver or platinum”, shall be substituted; (ii) in the opening paragraph, for the word and figures, “heading 7108”, the word and figures, “Chapter 71”, shall be substituted; (iii) in the Explanation, for clause (d), the following clause shall be substituted, namely: —. “(d) “Chapter” means heading as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).”

This notification has come into force on the 1st day of October, 2019

**Notification No. 18/2019-Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.2/2019- Central Tax (Rate) dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.~~

The notification seeks to amend notification No 2/2019- Central Tax (Rate) dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.

**Notification No.19/2019-Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to exempt supply of goods for specified projects under FAO.~~

CBIC has exempted, all the goods supplied to the Food and Agricultural Organization of the United Nations (FAO) for execution of projects listed below in the Annexure, from whole of the Central Tax leviable thereon under section 9 of the said Act, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Ministry of Agriculture and Farmers Welfare certifies, namely:-

- i. the quantity and description of the goods; and
- ii. that the said goods are intended for the purpose of use in execution of said projects.

**ANNEXURE**

- 1) Strengthening Capacities for Nutrition-sensitive Agriculture and Food systems,
- 2) Green Ag: Transforming Indian Agriculture for Global Environment benefits and the conservation of Critical Biodiversity and Forest landscape.

This notification has come into force on the 1st day of October, 2019

**Notification No. 20/2019- Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 37th meeting held on 20.09.2019~~

This notification seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 37th meeting held on 20.09.2019.

For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-20-2019-cgst-rate-english.pdf;jsessionid=1E15CEA3D6349C425879B92C74DD9893>

**Notification No. 21 /2019- Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No. 12/2017- Central Tax (Rate) to exempt services as recommended by GST Council in its 37th meeting held on 20.09.2019.~~

The notification seeks to amend notification No. 12/2017- Central Tax (Rate) to exempt services as recommended by GST Council in its 37th meeting held on 20.09.2019.

For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2019-cgst-rate-english.pdf;jsessionid=F6FC125B0E35EF3D53C924C0902C79F2>

**Notification No. 22/2019- Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to notify services under reverse charge mechanism (RCM) as recommended by GST Council in its 37th meeting held on 20.09.2019.~~

This notification seeks to amend notification No. 13/2017- Central Tax (Rate) so as to notify services under reverse charge mechanism (RCM) as recommended by GST Council in its 37th meeting held on 20.09.2019.

For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-22-2019-cgst-rate-english.pdf;jsessionid=39C0437FA3625D5FE27DF3173836989D>

**Notification No. 23/2019-Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No. 4/2018 - Central Tax (Rate), dated the 25th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights.~~

This notification seeks to amend notification No. 4/2018 - Central Tax (Rate), dated the 25th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights. This notification shall come into force with effect from the 1st day of October, 2019

**Notification No. 24/2019- Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No. 7/2019 - Central Tax (Rate), dated the 29th March, 2019 by amending the entry related to cement.~~

The notification seeks to amend notification No. 7/2019 - Central Tax (Rate), dated the 29th March, 2019 by amending the entry related to cement. This notification shall come into force with effect from the 1st day of October, 2019

**Notification No. 25/2019-Central Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.1/2017- Integrated Tax dated 28.6.2017 so as to specify effective IGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019.~~

The recommendations of the Council hereby notifies that the following activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever names it is called.”

## **Integrated Tax Notification**

**Notification No. 04/2019 – Integrated Tax**

**Date – 30.09.2019**

~~Seeks to notify the place of supply of R&D services related to pharmaceutical sector as per Section 13(13) of IGST Act, as recommended by GST Council in its 37th meeting held on 20.09.2019.~~

CBIC has notified following description of services or circumstances as specified in Column (2) of the Table A, in which the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in Column (3), to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules

**Table A**

Sl. No.	Description of services or circumstances	Place of Supply
	Supply of research and development services related to pharmaceutical sector as specified in Column (2) and (3) from Sl. No. 1 to 10 in the Table B by a person located in taxable territory to a person located in the non-taxable territory.	The place of supply of services shall be the location of the recipient of services subject to fulfillment of the following conditions:- (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. (ii) Such supply of services fulfills all other conditions in the definition of export of services, except sub-clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017 (13 of 2017).

For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-4-2019-igst-english.pdf;jsessionid=4AAAD0B3624CD7CBBA50D6E5360BA920>

## **Integrated Tax (Rate) Notification**

### **Notification No. 14/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.1/2017- Integrated Tax dated 28.6.2017 so as to specify effective IGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019.~~

The notification Seeks to amend notification No 1/2017- Integrated Tax dated 28.6.2017 so as to specify effective IGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019.

For details - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2019-igst-rate-english.pdf;jsessionid=49DB50D8870164FEC879820B14007749>

### **Notification No. 15/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.2/2017- Integrated Tax (Rate) dated 28.6.2017 to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants.~~

The notification seeks to amend notification No 2/2017- Integrated Tax (Rate) dated 28.6.2017 to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants. This notification shall come into force on the 1st October, 2019.

### **Notification No. 16/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.3/2017- Integrated Tax (Rate) dated 28.6.2017 so as to extend concessional IGST rates to specified projects under HELP/OALP, and other changes.~~

The notification seeks to amend notification No 3/2017- Integrated Tax (Rate) dated 28.6.2017 so as to extend concessional IGST rates to specified projects under the Hydrocarbon Exploration Licensing Policy (HELP) or Open Acreage Licensing Policy (OALP)

### **Notification No. 17/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.27/2018- Integrated Tax (Rate) dated 31.12.2018 so as to exempt IGST on supplies of silver and platinum by nominated agencies to registered persons.~~

This notification Seeks to amend notification No 27/2018- Integrated Tax (Rate) dated 31.12.2018 so as to exempt IGST on supplies of silver and platinum by nominated agencies to registered persons.

### **Notification No. 18 /2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to exempt supply of goods for specified projects under FAO.~~

In the public interest so to do, on the recommendations of the Council, hereby exempts, all the goods supplied to the Food and Agricultural Organisation of the United Nations (FAO) for execution of projects listed below in the Annexure, from whole of the Integrated tax leviable thereon under section 5 of the said Act, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Ministry of Agriculture and Farmers Welfare certifies, namely:-

- ✓ the quantity and description of the goods; and
- ✓ that the said goods are intended for the purpose of use in execution of said projects.

#### **ANNEXURE**

(1) Strengthening Capacities for Nutrition-sensitive Agriculture and Food systems,  
(2) Green Ag: Transforming Indian Agriculture for Global Environment benefits and the conservation of Critical Biodiversity and Forest landscape

#### **Notification No. 19/2019- Integrated Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 08/2017:- Integrated Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 37th meeting held on 20.09.2019.

The notification Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 37th meeting held on 20.09.2019. For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-19-2019-igst-rate-english.pdf;jsessionid=E44AF0A00049D331A4ED9881864C46ED>

#### **Notification No. 20 /2019- Integrated Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 09/2017:- Integrated Tax (Rate) so as exempt certain services as recommended by GST Council in its 37th meeting held on 20.09.2019.

The notification Seeks to amend notification No. 09/2017- Integrated Tax (Rate) so as exempt certain services as recommended by GST Council in its 37th meeting held on 20.09.2019. For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-20-2019-igst-rate-english.pdf;jsessionid=7E214E9990CC61DF83E0613F1410888>

#### **Notification No. 21/2019- Integrated Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 10/2017:- Integrated Tax (Rate) so as notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 37th meeting held on 20.09.2019.

The notification Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 37th meeting held on 20.09.2019. For details refer - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2019-igst-rate-english.pdf;jsessionid=FFEA163FF03ECA1C62C553755FD8B722>

#### **Notification No. 22/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 04/2018 - Integrated Tax (Rate), dated the 25th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights.

The notification Seeks to amend notification No. 04/2018 - Integrated Tax (Rate), dated the 25th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights. This notification shall come into force with effect from the 1st day of October, 2019.

#### **Notification No. 23/2019- Integrated Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 07/2019 :- Integrated Tax (Rate), dated the 29th March, 2019 by amending the entry related to cement.

This notification Seeks to amend notification No. 07/2019 - Integrated Tax (Rate), dated the 29th March, 2019 by amending the entry related to cement. This notification shall come into force with effect from the 1 st day of October, 2019.

**Notification No. 24/2019-Integrated Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to notify the grant of alcoholic liquor licence neither a supply of goods nor a supply of service as per Section 20(i) of IGST Act read with Section 7(2) of CGST Act.~~

The Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever names it is called.”

**Union Territory Tax (Rate) Notification**

**Notification No. 14/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.1/2017- Union territory Tax (Rate) dated 28.6.2017 so as to specify effective UTGST rates for specified goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019.~~

CBIC has made amendments in the Notification No.1/2017-Union territory Tax (Rate), dated the 28th June, 2017. In the said notification, -

A. in Schedule I – 2.5%, -

- (i) S. No. 33A and the entries relating thereto shall be omitted;
- (ii) against S. No. 164, in the entry in column (3), after item ii, the following item shall be inserted, namely: - “iii. Marine Fuel 0.5% (FO)”;
- (iii) against S. No. 224, for the entry in column (2), the entry “63 [other than 6305 32 00, 6305 33 00, 6309], shall be substituted.

**Notification No. 15/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.2/2017- Union territory Tax (Rate) dated 28.6.2017 so as to grant exemption to dried tamarind and cups, plates made of leaves, bark and flowers of plants.~~

CBIC has made amendments in the Notification No.2/2017-Union territory Tax (Rate), dated the 28th June, 2017. In the said notification, in the Schedule, -

- (i) after S. No. 57 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -
- (ii)

“57A	0813	Tamarind dried”;
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For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2019-utgst-rate-english.pdf>

**Notification No. 16/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

~~Seeks to amend notification No.3/2017- Union territory Tax (Rate) dated 28.6.2017 so as to extend concessional UTGST rates to specified projects under HELP/OALP, and other changes.~~

CBIC has made amendments in the Notification No.3/2017-Union Territory Tax (Rate), dated the 28th June, 2017. In the said notification, -

- (i) in the TABLE, against S. No. 1, in column (3), after item (5), the following item shall be inserted, namely: - “(6) Petroleum operations or coal bed methane operations undertaken under specified contracts under the Hydrocarbon Exploration Licensing Policy (HELP) or Open Acreage Licensing Policy (OALP)”;

For more details, please follow- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2019-utgst-rate-english.pdf;jsessionid=D2C926CF62A3E48D53EA55348D15195D>



**Notification No. 17/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No.26/2018- Union territory Tax (Rate) dated 31.12.2018 so as to exempt UTGST on supplies of silver and platinum by nominated agencies to registered persons.  
CBIC has made amendments in the Notification No.26/2018- Union Territory Tax (Rate), dated the 31st December, 2018.

For more details, please follow- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-17-2019-utgst-rate-english.pdf;jsessionid=4AA77B1E7DF562B999EACB4321E97935>

**Notification No. 18/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No.2/2019- Union territory Tax (Rate) dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.

CBIC has made amendments in the Notification No.02/2019-Union Territory Tax (Rate), dated the 7th March, 2019. In the said notification, in the Annexure, after Sl. No. 2 and the entries thereto, the following Sl. No. and entries shall be inserted, namely: -

"2A.	2202 10 10	Aerated Water";
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This notification has come into force on the 1st day of October, 2019.

**Notification No. 19/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to exempt supply of goods for specified projects under FAO.

CBIC has exempted all the goods supplied to the Food and Agricultural Organisation of the United Nations (FAO) for execution of projects listed below in the Annexure, from whole of the Union territory tax leviable thereon under section 7 of the said Act, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Agriculture and Farmers Welfare certifies, namely:-

- (i) the quantity and description of the goods; and
- (ii) that the said goods are intended for the purpose of use in execution of said projects.
- (iii)

**ANNEXURE**

1. Strengthening Capacities for Nutrition-sensitive Agriculture and Food systems,
2. Green Ag: Transforming Indian Agriculture for Global Environment benefits and the conservation of Critical Biodiversity and Forest landscape.

This notification has come into force on the 1st day of October, 2019.

**Notification No. 20 /2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify GST rates of certain services as recommended by GST Council in its 37th meeting held on 20.09.2019.

CBIC has made amendments in the Notification No.11/2017- Union Territory Tax (Rate), dated the 28th June, 2017. For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-20-2019-utgst-rate-english.pdf;jsessionid=D0FC649C4DD603C90F2491DEDAF4277D>

**Notification No. 21/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 12/2017- Union Territory Tax (Rate) so as to exempt certain services as recommended by GST Council in its 37th meeting held on 20.09.2019.

CBIC has made amendments in the Notification No.12/2017- Union Territory Tax (Rate), dated the 28th June, 2017. For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-21-2019-utgst-rate-english.pdf;jsessionid=1C5685BA3FA8082C0FC3BA6CDFCB1FFB>

**Notification No. 22/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 13/2017- Union Territory Tax (Rate) so as to notify certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 37th meeting held on 20.09.2019.

CBIC has made amendments in the Notification No.13/2017- Union Territory Tax (Rate), dated the 28th June, 2017. For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-22-2019-utgst-rate-english.pdf;jsessionid=692CBB164A79B829146DBB878446171A>

**Notification No. 23/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 04/2018 - Union Territory Tax (Rate), dated the 25th January, 2018, by adding an explanation on the applicability of provisions related to supply of development rights.

CBIC has made amendments in the Notification No.4/2018- Union Territory Tax (Rate), dated the 25th January, 2018.

For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-23-2019-utgst-rate-english.pdf;jsessionid=C1BB4DA9386D48A1B80DDD6E6C6ADD1F>

**Notification No. 24/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to amend notification No. 07/2019 - Union Territory Tax (Rate), dated the 29th March, 2019 by amending the entry related to cement.

CBIC has made amendments in the Notification No.07/2019- Union Territory Tax (Rate), dated the 29th March, 2019. For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-24-2019-utgst-rate-english.pdf;jsessionid=3A718A7B65FCD13AF5DFD0964924F15B>

**Notification No. 25/2019 – Union Territory Tax (Rate)**

**Date – 30.09.2019**

Seeks to notify the grant of alcoholic liquor licence neither a supply of goods nor a supply of service as per Section 21(i) of UTGST Act read with Section 7(2) of CGST Act, 2017.

CBIC has notified that the following activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:-

*“Service by way of grant of liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called.”*

**Customs – Tariff Notification**

**Notification No. 31/2019 – Customs**

**Date – 24.09.2019**

Seeks to amend notification No.50/2017-Customs dated 30.06.2017, in order to exempt petroleum operations or coal bed methane operations undertaken under HELP and OALP.

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

In the said notification, in the Table, against S. No. 404, in column (3), after item (e), the following item has been inserted, namely:-

*“(f) petroleum operations or coal bed methane operations undertaken under specified contracts under the Hydrocarbon Exploration Licensing Policy (HELP) or Open Acreage Licensing Policy (OALP)”.*

**Notification No. 32/2019 – Customs**

**Date – 30.09.2019**

Seeks to exempt imports by FAO for specified projects

CBIC has exempted all the goods imported into India by Food and Agricultural Organisation of the United Nations (FAO) for execution of projects listed below in the Annexure, from the whole of the integrated tax leviable thereon under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975) subject to the condition that the importer, *at the time of clearance of the goods, produces a certificate before the Assistant Commissioner of Customs or Deputy commissioner of Customs, as the case may be, having jurisdiction, from an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Agriculture and Farmers Welfare, verifying the following details, namely:-*

- (i) the quantity and description of the goods; and
- (ii) that the said goods are intended for the purpose of use in execution of said projects.

ANNEXURE

1. Strengthening Capacities for Nutrition-sensitive Agriculture and Food systems,
2. Green Ag: Transforming Indian Agriculture for Global Environment benefits and the conservation of Critical Biodiversity and Forest landscape.

This notification has come into force on the 1st day October, 2019.

**Notification No. 33/2019 –Customs**

**Date – 30.09.2019**

~~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 03.12.2021.~~

CBIC 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:-

(1)	(2)	(3)
	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 Defense	If,- (a) the said goods are imported by authorized works centers 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 Defense; 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, - (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 Defense, 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 Defense to the effect that the imports of the goods mentioned in the said list are authorized by the Ministry of Defense under and for the purposes of the LCAP. Explanation. - Nothing contained in this exemption shall have effect on or after the 4 th day of December, 2021.”

**Notification No. 34/2019 –Customs**

**Date – 30.09.2019**

~~Seeks to further amend notification No 50/2017-Customs dated 30th June, 2017 to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019~~

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

In the said notification, -

(I) In the Table,

- (a) against S. No. 359A, for the entry in column (3), the entry, “Import of gold, silver or platinum by specified banks and other entities (as per List 34)”, shall be substituted;
- (b) against S. No. 557A, in column (3), for the words “taken on lease by the importer for use after import”, the words, figures and brackets, “under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Services Tax Act, 2017”, shall be substituted;
- (c) against S. No. 557B, in column (3), for the words “under lease, by the importer for use after import”, the words, figures and brackets, “under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Services Tax Act, 2017”, shall be substituted;
- (d) after S. No. 557B and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
“557C	89	Ships/ Vessels for providing cable laying or repairing services in Indian Customs waters	--	Nil	105”;

For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfnns-2019/cs-tarr2019/cs34-2019.pdf;jsessionid=49F009E14EA9F87E0A1A3BFEB62CD6B>

**Notification No. 35/2019 –Customs**

**Date – 30.09.2019**

Seeks to amend notification No. 19/2019- Customs, dated the 6th July, 2019 so as to exempt from IGST specified defence goods, to give effect to the recommendations of the GST Council in its 37th meeting dated 20.09.2019. CBIC has made amendment in the Notification No. 19/2019- Customs, dated the 6th July, 2019.

In the said notification, in the opening paragraph, after the words, “*whole of the duty of customs leviable thereon*”, the words, figures and brackets “*under the said First Schedule, and whole of the integrated tax leviable thereon under subsection (7) of section 3 of the said Act*” shall be inserted.

This notification has come into force on the 1st day October, 2019.

**Customs – Non Tariff Notification**

**Notification No.66/2019 - Customs (N.T.)**

**Date – 19.09.2019**

Exchange Rates Notification No.66/2019-Custom(N.T.) dated 19.09.2019

CBIC has determined the rate of exchange of conversion of each of the foreign currencies of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, which has been effective from 20th September, 2019, relating to imported and export goods.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Exported Goods)
1	Australian Dollar	49.55	47.35
2	Bahraini Dinar	195.40	183.30
3	Canadian Dollar	54.65	52.70
4	Chinese Yuan	10.20	9.90
5	Danish Kroner	10.75	10.35

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt66-2019.pdf;jsessionid=5D360228699E0E7F13E4D67A1AB4296B>

**Notification No.67/2019 - Customs (N.T.)**

**Date – 30.09.2019**

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

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

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	551
2	1511 90 10	RBD Palm Oil	570
3	1511 90 90	Others – Palm Oil	561

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt67-2019.pdf;jsessionid=D467FF66D6BC8EB87BC92F47B2CA7DA5>

**Notification No.68/2019 - Customs (N.T.)**

**Date – 30.09.2019**

Transshipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019

CBIC has made following regulations, namely: -

**1. Short title and commencement. –**

(1) These regulations may be called the Transshipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019.

**2. Definitions. –**

(1) In these regulations, unless the context otherwise requires—

- a) 'Act' means the Customs Act, 1962 (52 of 1962);
- b) "authorised carrier" means an authorised sea carrier, an authorised train operator, shipping line or a custodian, registered under regulation 3 of the Sea Cargo Manifest and Transshipment Regulations, 2018 or his authorised agent;
- c) "ECTS" means the electronic cargo tracking system deployed for securing and monitoring traffic-in-transit destined to Nepal;
- d) "managed service provider" means a technology service provider appointed, as bilaterally agreed between the Governments of India and Nepal, for providing ECTS services.

## **Customs – Anti Dumping Notification**

### **Notification No. 38/2019-Customs (ADD)**

**Date – 25.09.2019**

~~Seeks to impose anti-dumping duty on imports of 'High -Speed Steel of Non-Cobalt Grade' originating in or exported from Brazil, China and Germany.~~

In case of "High -Speed Steel of Non-Cobalt Grade" falling under tariff items 7228 10 10 or 7228 10 90 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from Brazil, China and Germany, and imported into India, the Designated Authority in its final findings, vide notification No. 6/23/2018-DGTR dated, 1st August, 2019 has come to the conclusion that-

- (a) the subject goods have been exported to India from subject countries below its normal value, thus resulting in dumping of the product;
- (b) the domestic industry has suffered material injury due to dumping of the subject goods from the subject countries; and
- (c) the material injury has been caused by the dumped imports from the subject countries,

and has recommended the imposition of definitive anti-dumping duty on imports of the subject goods originating in, or exported, from the subject countries.

CBIC after considering the aforesaid final findings of the designated authority, has imposed on High -Speed Steel of Non-Cobalt Grade, anti-dumping duty.

The anti-dumping duty imposed under this notification shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

**Explanation** – For the purposes of this notification, the rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd38-2019.pdf;jsessionid=CB2EE9AF3166CD32C45B522150D29EA8>

### **Notification No. 39/2019-Customs (ADD)**

**Date – 28.09.2019**

~~Seeks to rescind Notification No. 23/2013-Customs (ADD) dated 10th October, 2013.~~

In the matter of Ductile iron pipes falling under tariff items 7303 00 30 or 7303 00 90 of the First Schedule to the Customs Tariff Act, 1975 originating in, or exported from China PR and imported into India, the designated authority had recommended continuation of anti-dumping duty on the imports of Ductile iron pipes.

Now, therefore, in exercise of the powers conferred, the Central Government has rescinded the Notification No. 23/2013-Customs(ADD), dated the 10th October 2013, except as respects things done or omitted to be done before such recession.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd39-2019.pdf;jsessionid=615B6150452FE0B821FAAA9A08B9CDF7>

## **Customs – Circulars**

### **Circular No. 33/2019-Customs**

**Date – 19.09.2019**

Clarification regarding duty drawback allowed in cases of short realisation of export proceeds due to bank charges deducted by foreign banks

Representations have been received from Export Promotion Councils, Trade Bodies, and individual exporters regarding show cause notices issued by some Customs field formations for recovery of duty drawback on account of short realisation of export sale proceeds due to bank charges deducted from export invoice by the banks.

Exporters have contended that these short realisations are actually service charges deducted by intermediary banks while remitting payments from abroad and that said charges are documented by the banks. It has been requested such short realised export sale proceeds may be considered as full realisation and that duty drawback not be recovered for such short realisation.

In this regard, RBI has clarified that such deductions are enabled under notification No. FEMA 23(R)2015-RB dealing with Foreign Exchange Management (Export of Goods and Services) Regulations 2015. In respect of various export promotion schemes, para 2.52 of FTP 2015-20 also states that free foreign exchange remitted by buyer after deduction of bank service charges are taken as export realisation under export promotion schemes of FTP.

Earlier also, in respect of agency commission paid to agents abroad for securing export contracts, Board vide Circular No. 64/2003- Customs dated 21.07.2003 has allowed such commission up to the limit of 12.5% of FoB value to be considered for payment of duty drawback without deducting it from FoB value in line with the RBI's Circular No.AD (MA Service) 17, dated 19.5.1999 and DGFT's Policy Circular No. 55 (RE- 98) dated 10.02.1998.

Field formations may consider on merits exporter's requests for regularising such short realisation on account of foreign bank charges based on documentary evidence such as export invoice, bank's confirmation regarding foreign bank charges, etc. to justify such deductions. Field formations are also requested to deal with the show cause notices already issued by them accordingly.

## Direct Tax

### Notification

#### Notification No. 67/2019

Date - 17.09.2019

#### Income-tax (8th Amendment Rules), 2019

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

**1. Short title and commencement-**

- a) These rules may be called the Income-tax (8th Amendment) Rules, 2019.
- b) They shall come into force from the date of their publication in the Official Gazette.

**2. In the Income-tax Rules, 1962, in Part II,- (a) after rule 10UC, the following shall be inserted, namely:-**

*"DE.- Approving Panel*

**10UD. Reference to the Approving Panel.-** A reference under sub-section (4) of section 144BA to an Approving Panel shall be,-

- (i) made in Form No 3CEIA along with a copy of Form No 3CEI and such other documents which the Principal Commissioner or the Commissioner deems fit; and
- (ii) submitted in four sets, either in Hindi or English.

**10UE. Procedure before the Approving Panel.-**

1. A reference received under rule 10UD shall be caused to be circulated by the Chairperson of the said Panel among the other members within seven days from the date of receipt of such reference.
2. The Chairperson of the Approving Panel shall cause to be issued the notice to the Assessing Officer and the assessee affording an opportunity of being heard specifying therein the date and place of hearing.
3. The meetings of the Approving Panel shall take place at such place as the Approving Panel may decide.

**10UF. Remuneration.-**

**(1)** For attending the meeting of an Approving Panel, the Chairperson and other members of the said Panel shall be entitled to-

- (i) a sitting fee of six thousand rupees per day; and

- (ii) travelling allowances including transportation charges for local travel and daily allowances (including accommodation) as admissible to an officer of the rank of Special Secretary to the Government of India.

(2) The expenditure of an Approving Panel shall be met from the budgetary grants of the Department of Revenue in the Ministry of Finance of the Central Government.”

For more details, please follow –

[https://www.incometaxindia.gov.in/communications/notification/notification\\_67\\_2019.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_67_2019.pdf)

**Notification No. 68/2019**

**Date – 18.09.2019**

~~Exemption to Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's) under clause (v) of the proviso to section 194N of the Income Tax Act, 1961.~~  
 CDBT after consultation with the Reserve Bank of India, has specified Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's) maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.

The notification has been effective from 1st September, 2019.

**Notification No. 69/2019**

**Date – 20.09.2019**

**Higher depreciation on certain motor cars, motor buses, motor lorries and motor taxis**

In exercise of the powers conferred by section 32 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes, hereby, makes the following rules to further amend the Income-tax Rules, 1962, namely:

**1. Short title and commencement.-**

- a) These rules may be called the Income-tax (9th Amendment) Rules, 2019.  
 b) They shall be deemed to have come into force with effect from the 23rd day of August, 2019.

2. In the Income-tax Rules, 1962, in the NEW APPENDIX I, in the Table, in PART A relating to TANGIBLE ASSETS, in item III relating to MACHINERY AND PLANT, -

- a) for sub-item (2) and entries relating thereto, the following shall be substituted, namely:-

<b>Block of Assets</b>	<b>Depreciation allowed as per percentage of written down value</b>
“(2) (i) Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1st day of April, 1990 except those covered under entry (ii);	15
(ii) Motor cars, other than those used in a business of running them on hire, acquired on or after the 23rd day of August, 2019 but before the 1st day of April, 2020 and is put to use before the 1st day of April, 2020.	30

- b) in sub-item (3), for paragraph (ii) and entries relating thereto, the following shall be substituted, namely:-

<b>Block of Assets</b>	<b>Depreciation allowed as per percentage of written down value</b>
“(ii) (a) Motor buses, motor lorries and motor taxis used in a business of running them on hire other than those covered under entry (b).	30
(b) Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired on or after the 23rd day of August, 2019 but before the 1st day of April, 2020 and is put to use before the 1st day of April, 2020.	45

**Explanatory Memorandum:** It is certified that no person is being adversely affected by giving retrospective effect to this notification.

**Notification No. 70/2019**

**Date – 20.09.2019**

*Exemption to commission agents or traders operating under APMC under clause (v) of the proviso to section 194N of the Income Tax Act, 1961.*

Central Government after consultation with the Reserve Bank of India, has specified the commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of rupees one crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of rupees one crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.

The notification shall be deemed to have come into force with effect from the 1st day of September, 2019.

**Notification No. 73/2019**

**Date – 26.09.2019**

*Amendment in Notification No..O. 2753(E) dated 22nd October, 2014.*

CBDT has made amendments in the Notification S.O. 2753(E) dated 22nd October, 2014, namely:-

- (i) In the said notification the Sl Nos. 17, 31, 43, 44 and 57 in the SCHEDULE,- and the entries relating thereto shall be omitted;
- (ii) **(a)** against Sl No.15 in column (4) after item (iii) and the entries relating thereto, the following item and entries shall be inserted, namely:-
  - (i) “(iv) Principal Commissioner / Commissioner of Income-tax, Chennai – 6.”
- (b)** against Sl No.16 in column (4) after item (iii) and the entries relating thereto, the following item and entries shall be inserted, namely:-
  - (i) “(iv) Principal Commissioner / Commissioner of Income-tax, Puducherry”
- (c)** against Sl No.29 in column (4) after item (ii) and the entries relating thereto, the following item and entries shall be inserted, namely:-
  - (i) “(iii) Principal Commissioner / Commissioner of Income-tax, Delhi – 24” (d) against Sl No.30 in column (4) after item
  - (ii) and the entries relating thereto, the following item and entries shall be substituted and inserted, namely:- (i) “(ii) Principal Commissioner / Commissioner of Income-tax, Delhi – 23 (ii) (iii) Principal Commissioner / Commissioner of Income-tax, Delhi – 9”

**Notification No. 75/2019**

**Date – 28.09.2019**

*Amendment in Notification No..SO. 1495(E) dated 01st April, 2019.*

CBDT has made amendments in the Notification S.O. number 1495(E) , dated 01st April, 2019.

In the said notification: -

- (i) in paragraph 1, 30th September, 2019 shall be substituted by 31st December, 2019;
- (ii) in paragraph 3, 30.09.2019 shall be substituted by 31st December, 2019.

## **Circulars**

**Circular No. 26 of 2019**

**Date – 26.09.2019**

*Clarifications in respect of filling-up of return forms for the Assessment Year 2019-20.*

The Income-tax Return (ITR) forms for the Assessment Year (A.Y.) 2019-20 were notified vide notification bearing G.S.R. 279(E) dated the 1st day of April, 2019.

Following clarifications have been issued against representations received on certain issues relating to filing of Forms ITR-5, ITR-6 and ITR-7.



**Question:** In the Form ITR-6, an unlisted company, other than a start-up, is required to furnish details of shareholding in Schedule SH-1. In a case where shares have been acquired by way of transfer, please clarify how the columns on "Date of allotment", "Issue price" and "Amount received" should be filled up?

**Answer:** In case shares have been acquired by the shareholder by way of transfer, and not by way of allotment made by the company, the details of shareholding should be entered in the respective columns of the Table in Schedule SH-1, as under-

- (i) Name of Shareholder: - Enter name of the person holding shares as on end of the previous year (current shareholder).
- (ii) Date of allotment:-Enter date on which shares were transferred to the current shareholder as per companies register.
- (iii) Face value per share: - Enter the face value per share at which the shares had been originally allotted by the company.
- (iv) Issue price per share: - Enter the price at which shares were issued by the company to the original shareholder to whom the company had allotted the shares.
- (v) Amount received: - Enter the total amount received by the company from the original shareholder to whom the allotment of shares had been made, up to the end of the previous year.

In case of start-ups, the details of shareholding are required to be furnished in Schedule SH-2. In cases where shares of a start-up company have been acquired by the shareholder by way of transfer, the details of shareholding should be entered in the respective column of the table in Schedule SH-2, as under-

- (i) Name of Shareholder: - Enter name of the person holding shares as on end of the previous year (current shareholder).
- (ii) Date of allotment:-Enter date on which shares were transferred to the current shareholder as per companies register.
- (iii) Face value per share: - Enter the face value per share at which the shares had been originally allotted by the company.
- (iv) Issue price per share: - Enter the price at which shares were issued by the company to the original shareholder to whom the company had allotted the shares.
- (v) Paid up value per share: - Enter the amount received by the company for each share, from the original shareholder to whom the allotment of shares had been made, up to the end of the previous year.
- (vi) Share premium: - Enter the amount of premium per share at which shares were allotted by the company to the original shareholder.

**Question2:** Please clarify whether it is mandatory to mention PAN number of shareholder in Schedule SH-1. In a case where shareholder is resident of a foreign country having no PAN, or in case where PAN of shareholder is not available for other practical reasons, it is not possible to fill up PAN of all shareholders in the Schedule SH-1.

**Answer:** PAN of shareholder should be furnished in Schedule SH-1, if available. However, in case the shareholder is a non-resident, having no PAN, a default value can be entered in place of PAN such as "NORES9999N". Similarly, in case PAN of the shareholder is not available due to any other reason, a default value can be entered in place of PAN such as "NOAVL9999N"

**Question3:** An unlisted company registered under section 8 of Companies Act 2013 or Section 25 of the Companies Act 1956 does not have share capital. In such case, how the details required in Schedule-SH-1 are required to be filled up?

**Answer:** In the departmental utility of ITR-6, at the beginning of Schedule SH-1, the taxpayer is required to answer the question - "Are you a company registered under Section 8 of Companies Act 2013 or Section 25 of Companies Act 1956?". In case the taxpayer selects "Yes" in the dropdown provided against the question, the details in Schedule SH-1 are not required to be filled up.

**Question 4:** An unlisted company, other than a start-up, is required to furnish details of assets and liabilities in Schedule AL-1, which is mandatory. A start-up is required to furnish details of assets and liabilities in Schedule AL-2. In a case where the unlisted company or start-up does not hold any of the assets specified therein as at the end of the previous year, please clarify how the details in Schedule AL-1/Schedule AL-2 should be filled up?

**Answer:** In the departmental utility of ITR-6, at the beginning of Schedule AL-1/ Schedule AL2, the taxpayer is required to answer the question - "Do you have assets and liabilities as at the end of the year as mentioned in Schedule AL-1/Schedule AL-2?". In case the taxpayer selects "No" in the drop-down provided against the question, the details in Schedule AL-1/Schedule AL-2 are not required to be filled up. In case the taxpayer selects "Yes" in the drop-down provided against the question, it is mandatory to furnish the requisite details in at least one of the Tables given in Schedule AL-1/Schedule AL-2.

**Question 5:** An AOP/BOI is chargeable to tax at slab rate. However, while filing return of income in ITR-S, the departmental utility is charging tax at maximum marginal rate?

**Answer:** In Part A - General of the ITR-S, the particulars of members of the AOP/BOI are required to be furnished along with their respective shares. In case these particulars are not provided, or incorrectly provided (e.g. total of shares of the members does not add up to 100%), the tax is being charged at maximum marginal rate.

**Question 6:** I am a private trust and am trying to file return of income in Form ITR-2. However, I am unable to file ITR-2 for A.Y. 2019-20. ?

**Answer:** As per rule 12 of the Income-tax Rules, only individuals and HUFs, not having any income under the head business or profession, are eligible to file ITR-2. A private trust is required to furnish return of income in ITR-5.

**Question 7:** An investment fund or a business trust is required to file return of income in ITR-S. Please clarify how their income should be shown in Schedule SI etc.?

**Answer:** An investment fund claiming exemption under section 10(23FB) or 10(23FBA), or a business trust claiming exemption under section 10(23FC) or 10(23FCA), have to enter the amount of exempt income directly in column 12(b) or column 12(c), respectively, of the Part B - TI (computation of income) in the ITR-5. Such entities are not required to fill up the head-wise details in Schedule BP, Schedule HP, Schedule CG, Schedule as, and Schedule SI etc.

**Question 8:** I am a trust registered under section 12A/12AA filing return of income in ITR-7. The amount received as corpus donation should be treated as exempt. However the departmental utility is including this amount as part of total income?

**Answer:** In Part A - General, in the table "Details of registration or approval under the Income tax Act", please enter 'section 12A/12AA' under the column "section under which registered or approved". Further, in the column on filing status, please choose "section 11" in the drop-down provided against the field "please specify the section under which the exemption is claimed". If these details are furnished correctly in Part A-General, the amount of corpus donation would not be included in total income.

**Question 9:** I am a trust/ society/company claiming exemption under section 10 or section 13A or section 13B and filing return of income in ITR-7. However the departmental utility is charging tax even on the amount shown as exempt income?

**Answer:** The claim of exemption under section 10 or section 13A or section 13B by such entities should be entered directly in the relevant column of the Part B-TI (computation of income) in ITR-7. The income and expenditure statement should be furnished in the applicable Schedule i.e. Schedule 1E-1 or IE-2 or IE-3 or IE-4. Such entities are not required to fill up the head-wise details in Schedule BP, Schedule HP, Schedule CG, Schedule as, and Schedule SI .

**Circular No. 27 of 2019**  
**Date - 26.09.2019**

Conduct of assessment proceedings through 'E-Proceeding' facility during financial year 2019-20-regd.

The Central Board of Direct Taxes ('Board'), in exercise of its powers under section 119 of the Income-tax Act, 1961 ('Act') and in accordance with provision of section 2(23C) of the Act, hereby directs as under:

In all cases (other than the cases covered under the E-Assessment scheme, 2019' notified by the Board), where assessment is to be framed under section 143(3) of the Act during the financial year 2019-20, it is hereby directed that such assessment proceedings shall be conducted electronically subject to exceptions in para below.

Consequently, assessee are required to produce/ cause to produce their response/evidence to any notice/ communication/ show-cause issued by the Assessing Officer electronically (unless specified otherwise) through their 'E-filing' account on the 'E-filing' portal. For smooth conduct of assessment proceedings through 'E-Proceeding', it is further directed that requisition of information in cases under 'E-Proceeding' should be sought after a careful scrutiny of case records.

(ii) In following cases, where assessment is to be framed during the financial year 2019- 20, 'E-Proceeding' shall not be mandatory:

- a. Where assessment is to be framed under section(s) 153A, 153C and 144 of the Act. In respect of assessments to be framed under section 147 of the Act, any relaxation from e-proceeding due to the difficulties in migration of data from ITO to ITBA etc. shall be dealt as per clause (f) below;
- b. In set-aside assessments;
- c. Assessments being framed in non-PAN cases;
- d. Cases where Income-tax return was filed in paper mode and the assessee concerned does not yet have an 'E-filing' account;
- e. In all cases at stations connected through the VSAT or with limited capacity of bandwidth (list of such stations shall be specified by the Pr. DGIT (System));
- f. In cases covered under para 1 (i) above, the jurisdictional Pr. CIT/CIT, in extraordinary circumstances such as complexities of the case or administrative difficulties in conduct of assessment through 'E-Proceeding', can permit conduct of assessment proceedings through the conventional mode. It is hereby further directed that Pr.CIT/CIT is required to provide such relaxation only in extraordinary circumstances after examining the necessity for such relaxation and recording the reasons for providing such relaxations.

(iii) However, it is clarified that issue of notices and departmental communications in such cases shall be strictly governed by the guidelines issued by CBDT vide its Circular No.19/2019 dated 14.08.2019 regarding generation/allotment/quoting of Document Identification Number (DIN).

(iv) In cases where assessment proceedings are being carried out through the 'E- Proceeding' as per para 1 (i) above, personal hearing/ attendance may take place in following situation(s):

- a. Where books of accounts have to be examined;
- b. Where Assessing Officer invokes provisions of section 131 of the Act;
- c. Where examination of witness is required to be made by the assessee or the Department;
- d. Where a show-cause notice contemplating any adverse view is issued by the Assessing Officer and assessee requests through their 'E-filing' account for personal hearing to explain the matter. However, the details pertaining to above shall be uploaded on ITBA subsequently.

# PRESS RELEASE

## INDIRECT TAX

Press Release  
Date – 20.09.2019

### Decisions taken by the GST Council in its 37th Meeting held on 20.09.2019

The GST Council, in its 37th meeting held today at Goa, recommended the following:

1. Relaxation in filing of annual returns for MSMEs for FY 2017-18 and FY 2018-19 as under:

- waiver of the requirement of filing FORM GSTR-9A for Composition Taxpayers for the said tax periods; and
- filing of FORM GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods.

2. A Committee of Officers to be constituted to examine the simplification of Forms for Annual Return and reconciliation statement.

3. Extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.

4. In order to nudge taxpayers to timely file their statement of outward supplies, imposition of restrictions on availment of input tax credit by the recipients in cases where details of outward supplies are not furnished by the suppliers in the statement under section 37 of the CGST Act, 2017.

5. New return system now to be introduced from April, 2020 (earlier proposed from October, 2019), in order to give ample opportunity to taxpayers as well as the system to adapt and accordingly specifying the due date for furnishing of return in FORM GSTR-3B and details of outward supplies in FORM GSTR-1 for the period October, 2019 - March, 2020.

6. Issuance of circulars for uniformity in application of law across all jurisdictions:

- procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;
- eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed; and
- clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.

7. Rescinding of Circular No.105/24/2019-GST dated 28.06.2019, ab-initio, which was issued in respect of post-sales discount.

8. Suitable amendments in CGST Act, UTGST Act, and the corresponding SGST Acts in view of creation of UTs of Jammu & Kashmir and Ladakh.

9. Integrated refund system with disbursal by single authority to be introduced from 24th September, 2019.

10. In principle decision to link Aadhar with registration of taxpayers under GST and examine the possibility of making Aadhar mandatory for claiming refunds.

11. In order to tackle the menace of fake invoices and fraudulent refunds, in principle decision to prescribe reasonable restrictions on passing of credit by risky taxpayers including risky new taxpayers.

Press Release  
Date – 20.09.2019

### ON GST RATE ON SERVICES AS RECOMMENDED BY THE GST COUNCIL IN ITS 37th MEETING HELD ON 20th SEPTEMBER, 2019

GST Council in the 37th meeting held on 20th September, 2019 at Goa took following decisions relating to changes in GST rates, ITC eligibility criteria, exemptions and clarifications on connected issues

#### (A) EXEMPTIONS / CHANGES IN GST RATES / ITC ELIGIBILITY CRITERIA:

##### **Rate reduction sector wise:**

##### Hospitality and tourism:

- To reduce the rate of GST on hotel accommodation service as below: -
- 

Transaction Value per Unit (Rs) per day	GST
Rs 1000 and less	Nil
Rs 1001 to Rs 7500	12%
Rs 7501 and more	18%

2. To reduce rate of GST on outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs 7501 from present 18% with ITC to 5% without ITC. The rate shall be mandatory for all kinds of catering. Catering in premises with daily tariff of unit of accommodation is Rs 7501 and above shall remain at 18% with ITC.

##### Job work service:

3. To reduce rate of GST from 5% to 1.5% on supply of job work services in relation to diamonds.

4. To reduce rate of GST from 18% to 12% on supply of machine job work such as in engineering industry,

except supply of job work in relation to bus body building which would remain at 18%

**Exemption sector wise:**

Warehousing:

5. To exempt prospectively services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.

Transportation:

6. To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020.

Insurance:

7. To exempt "BANGLA SHASYA BIMA" (BSB) crop insurance scheme of West Bengal Government.

8. To exempt services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary forces.

Export promotion:

9. To exempt services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory.

10. To issue a notification under Section 13(13) of IGST Act notifying the place of supply of specified R&D services (such as Integrated discovery and development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease, Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays, Drug metabolism and pharmacokinetics of new chemical entities, Safety Assessment/ Toxicology, Stability Studies, Bio Equivalence and Bio Availability Studies, Clinical trials, Bio analytical studies) provided by Indian pharma companies to foreign service recipients, as the place of effective use and enjoyment of a service i.e. location of the service recipient.

11. To clarify that the place of supply of chip design software R&D services provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient and section 13(3)(a) of IGST Act, 2017 is not applicable for determining the place of supply in such cases.

Miscellaneous

12. To allow the registered authors an option to pay GST on royalty charged from publishers under forward charge and observe regular GST compliance.

13. To notify grant of liquor license by State Governments against payment of license fee as a "no supply" to remove implementational ambiguity on the subject.

14. To exempt services related to FIFA Under-17 Women's World Cup 2020 similar to existing exemption given to FIFA U17 World Cup 2017.

**(B) RATIONALIZATION/ TRADE FACILITATION MEASURES:**

15. To allow payment of GST on securities lending service under reverse charge mechanism (RCM) at the merit rate of 18% and to clarify that GST on securities lending service for period prior to RCM period shall be paid on forward charge basis. IGST shall be payable on supply of these services and in cases where CGST/SGST/UTGST have been paid, such taxpayers will not be required to pay tax again.

16. To allow RCM to suppliers paying GST @ 5% on renting of vehicles, from registered person other than body corporate (LLP, proprietorship) when services provided to body corporate entities.

**(C) CLARIFICATIONS:**

17. To clarify the scope of the entry 'services of exploration, mining or drilling of petroleum crude or natural gas or both'.

18. To clarify taxability of Passenger Service Fee (PSF) and User Development Fee (UDF) levied by airport operators.

**Note:** It is proposed to issue notifications giving effect to these recommendations of the Council on 1st October, 2019.

**Press Release  
Date - 20.09.2019**

**ON GST RATE ON GOODS AS RECOMMENDED BY THE GST COUNCIL IN ITS 37th MEETING HELD ON 20.09.2019**

GST Council in the 37th meeting held on 20.09.2019 at Goa took the following decisions in respect to rates relating to goods.

**I. GST rates reduction, -**

**a)** 18% to 12% on parts of Slide Fasteners

**b)** 18% to 5% on Marine Fuel 0.5% (FO)

**c)** 12% to 5% on Wet Grinders (consisting stone as a grinder)

**d)** 5% to Nil on:-

**(i)** Dried tamarind

**(ii)** Plates and cups made up of leaves/ flowers/bark

**e)** 3% to 0.25% on cut and polished semi- precious stones

**f)** Applicable rate to 5% on specified goods for petroleum operations undertaken under Hydrocarbon Exploration Licensing Policy (HELP)

**g)** Exemptions from GST/IGST on:-

**(i)** imports of specified defence goods not being manufactured indigenously (upto 2024)

(ii) supply of goods and services to FIFA and other specified persons for organizing the Under-17 Women's Football World Cup in India.

(iii) supply of goods and services to Food and Agriculture Organisation (FAO) for specified projects in India.

## **II. GST rates have been recommended to be increased from, -**

**a)** 5% to 12% on goods, falling under chapter 86 of tariff like railway wagons, coaches, rolling stock (without refund of accumulated ITC). This is to address the concern of ITC accumulation with suppliers of these goods.

**b)** 18% to 28% +12% compensation cess on caffeinated Beverages

## **III. Measures for Export Promotion**

**a)** Exemption from GST/IGST:-

(i) at the time of import on Silver/Platinum by specified nominated agencies

(ii) supply of Silver/Platinum by specified nominated agency to exporters for exports of Jewellery,

**b)** Inclusion of Diamond India Limited (DIL) in the list of nominated agencies eligible for IGST exemption on imports of Gold/ Silver/Platinum so as to supply at Nil GST to Jewellery exporters.

**IV.** A uniform GST rate of 12% on Polypropylene/Polyethylene Woven and Non-Woven Bags and sacks, whether or not laminated, of a kind used for packing of goods (from present rates of 5%/12%/18%)

**V.** GST concession in certain cases for specific period: -

**a)** Exemption to Fishmeal for the period 01.07.17 to 30.09.19. There were doubts as regards taxability of fishmeal in view of the interpretational issues. However, any tax collected for this period shall be required to be deposited.

**b)** 12% GST during the period 1.07.2017 to 31.12.2018, on pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery.

**VI.** Passenger vehicles of engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000mm designed for carrying upto 9 persons attract compensation cess of 1% for petrol and 3% for diesel vehicle. Council recommended same compensation cess rate for vehicles having these specifications (length and engine capacity) but designed for carrying more than 10 persons but upto 13 persons. (Presently these vehicles attract compensation cess at the rate of 15%)

## **VII. Other miscellaneous Changes:**

- Aerated drink manufacturers shall be excluded from composition scheme.
- Option to pay GST at the rate of 18% on transaction value at the time of disposal of specified goods for petroleum operations

(on which concessional GST rate of 5% was paid at the time of original supply) provided that the goods are certified by Directorate General of Hydrocarbons (DGH) as non-serviceable.

- Restriction on refund of compensation cess on tobacco products (in case of inverted duty structure)
- Prescribing modalities for allowing concessions on spare parts imported temporarily by foreign airlines for repair of their aircraft, while in India in transit in terms of the Chicago Convention on Civil Aviation.
- Certain other changes of technical nature for the sake of clarity in application of notification.

**VIII.** Clarifications as regards applicability of GST rate in respect of certain goods recommended by GST Council which inter-alia includes:

**a)** Mere heating of leguminous vegetables (gram/lentil) for removing moisture, or to soften and puff it or removing the skin, and not subjecting to any other processing or addition of any other ingredients (salt, oil etc.) would be classified under HS code 0713.

**b)** All "mechanical sprayers" falling under HS Code 8424 would attract 12% GST.

**c)** Parts like Solar Evacuation tubes for solar power based devices like solar water heater, solar steam, generation systems, would be eligible to 5% GST rate.

**d)** Exclusive parts and accessories suitable for use solely or principally with a medical device (falling under headings 9018, 9019, 9021 or 9022) would fall in respective headings and attract GST at the concessional rate of 12%.

**e)** Almond milk is classifiable under HS code 22029990 and attracts GST rate of 18%.

**f)** Imported stores for Navy would be entitled to exemption from IGST.

**The rate changes shall be made effective with effect from 1st October, 2019.**

# JUDGEMENTS

## INDIRECT TAX

**Standalone Service of Arranging Client's Accommodation is classifiable as 'Support Service' on which ITC can be availed: AAR**

**West Bengal AAR vs. Golden Vacations Tours & Travels**

**Case No.- 32 of 2019  
Date - 15/07/2019**

### Fact of the Case

- In the present case the applicant is a tour operator who is seeking a ruling of the Authority on the classification of service of arranging client's accommodation in hotels.
- It also seeks a ruling on the issue that whether Input Tax Credit (hereinafter referred to as 'ITC') shall be available on the GST the hotels charge on it.
- The revenue submitted that the applicant's service shall be classifiable under SAC 9985 i.e. tour operating service procured from another tour operator.

### Decision of the Case

- The Authority constituting of the Bench of Hon'ble Members Mr. Parthasarathi Dey and Ms. Susmita Bhattacharya emphasized that the applicant is merely engaged in arranging the client's accommodation in hotels
- The Authority held that such a service of arranging accommodation as a standalone business cannot be classified as tour operating under Sl No. 23(i) of the Rate Notification wherein the definition of tour operator prescribes that the arrangement of accommodation might be provided as add-ons, but that is not the essence of the tour operating service.
- The West Bengal Authority for Advance Ruling in an application filed by Golden Vacations Tours and Travels held that the applicant engaged in providing the standalone service of arranging client's accommodation is classifiable as 'Support Service' and not as 'Tour Operator'. Also, ITC shall be available on the same.

**Rajasthan HC dismisses Petition on Ground of lack of Jurisdiction by applying the Doctrine of Exhaustion of Alternate Remedies**

**M/s HCL Info systems Ltd vs. Rajasthan , Tax Division, Finance Department**

**Writ Petition No. - 491/2017**

### Fact of the Case

- M/s HCL Info systems Ltd is the applicant in the present case
- The appellants in the writ petitions challenged the notices issued to them under

Section 25, 26, 55 and 61 of the Rajasthan Value Added Tax Act, 2003.

- Considering however that the period for filing the appeal has expired, the learned Single Judge gave liberty to the appellants to file appeal within 60 days from the date the judgment is pronounced.
- The issue before the present case is hence with respect to the determination of the availability of an alternative remedy of appeal
- The appellant contended that the re-assessment orders passed by the Assessing Officer in these matters are without any jurisdiction and the writ petitions can be directly maintained before the present court by the exercise of extraordinary jurisdiction in exceptional cases under Article 226 of the Constitution of India without the exhaustion of alternative remedies.

### Decision of the Case

- The Bench constituting of Justices Narendra Singh Dhadha and Mohammad Rafiq after analyzing the precedents of the Supreme Court on the subject upheld the decision of the Hon'ble Single Judge Bench.
- The Bench held that the present case did not completely lack the jurisdiction in passing the reassessment order.
- It went on to hold that the case of the appellants cannot also fall in any category of exceptions consisting of breach of a fundamental right.
- On the above grounds, the Court held upheld the order of the Court while applying the doctrine of exhaustion of alternative remedies.

**Composition of GSTAT is Unconstitutional, rules Madras High Court**

**Revenue Bar Association vs. Union of India & Others**

**W P No. -21147,21148 and 14919 of 2018  
Date - 20.09.2019**

### Fact of the Case

- In the present situation Advocate V Vasanthakumar is the petitioner
- The petitioner has has contended that Sections 109 and 110 of the Central Goods and Services Tax (CGST) Act 2017 are unconstitutional as the same is void, defective and unconstitutional, being violative of doctrines of separation of powers and independence of the judiciary.
- Before GSTAT there was CESTAT which was consisted of two members , one judicial member and one technical member
- The Appellate Tribunal is constituted under Section 109 of the CGST Act and Tamil Nadu GST Act and Section 110 of the CGST / TNGST

Act, provides for qualification appointment, condition of services, etc., for President and members of the Appellate Tribunal.

- According to the petitioner, the provision is contrary to the decision of the Supreme Court in Union of India v R. Gandhi

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

- Dismissing an argument made during the course of hearing, it also concluded that advocates do not have a fundamental right to become judges / judicial members of the GSTAT.
- The division bench comprising of Justice S. Manikumar and Justice Subramonium Prasad has held that the number of judicial members must exceed the number of technical members.
- The Madras High Court has ruled that the constitution of GST Appellate Tribunal (GSTAT) is unconstitutional.

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**'Dialyzer' used in dialysis machine- 5% GST Payable: AAR**

**M/s Nipro India Corporation Private Limited vs. GST AAR Maharashtra**

**Case No. - GST-ARA- 141/2018-19/B-94  
Date - 23/08/2019**

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

- The Applicant, M/s Nipro India Corporation Private Limited is engaged in the manufacturing of medical equipments such as dialyzers, blood tubing sets, arterial fistulas, syringes and needles.
- The following question was raised-
  - ✓ "Whether on facts and circumstances of the case, the product "Dialyzer" be treated as 'Disposable sterilized dialyzer or micro barrier of artificial kidney' as mentioned under Entry No. 255 of Schedule 1 to Notification Number 1/2017-Central Tax (Rate), dated 28 June 2017 and Notification Number 1/2017-Integrated Tax (Rate), dated 28 June 2017 (collectively referred to as the 'Rate Notifications')
  - ✓ If the said product "Dialyzer" falls under Entry No. 255 of Schedule I to the Rate Notifications, whether it would be classified under Chapter 90 (i.e. Tariff item 9018 90 31) or Chapter 84 (i.e. Tariff item 8421 29 00).

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

- Dialyzer will be treated as 'Disposable sterilized dialyzer or micro barrier of artificial kidney' as mentioned under Entry No. 255 of Schedule 1 to Notification Number 1/2017-

Central Tax (Rate), dated 28 June 2017 and Notification Number 1/2017-Integrated Tax (Rate), dated 28 June 2017 (collectively referred to as the 'Rate Notifications')

- The product is classifiable in the tariff item 9018 90 31.

### **DIRECT TAX**

#### **ITAT allows Deduction to Harish Salve on Foreign Scholarship to Indian Students**

**Shri Harish Narinder Salve vs. The Assistant Commissioner of Income Tax**

**Case No. - 2285/Del/2016  
Date - 13.09.2019**

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

- Senior Advocate Harish Salve is the applicant in the present case
- He claimed deduction of the foreign scholarship given by him to Indian students as "expenditure solely and exclusively for the purpose of business"
- Salve claimed the deduction in the returns of Rs.50,52,50,407 filed for the assessment year 2011-12. The Senior Advocate, who recently represented India before the International Court of Justice in the Kulbhushan Jadhav case, argued that the foreign scholarship increased his international visibility and enabled him to develop contacts with academia in UK.

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

- The Tribunal observed that the allowability of an expenditure incurred by the assessee u/s 37 (1) of the act is required to be tested in accordance with nature and scale of the business/ profession of the assessee.
- Assessee is a noted international lawyer who has set up a scholarship for creating his visibility in international arena and his social standing.
- The expenditure incurred by the assessee is the routine day-to-day expenditure incurred by the assessee for promoting his professional profile.
- These expenditure cannot be held to be capital expenditure in nature as no fresh new fixed assets is created by paying the scholarship sum.
- The Delhi bench of the Income Tax Appellate Tribunal (ITAT), has accepted the claim of Senior Advocate Harish Salve for deduction of the foreign scholarship given by him to two Indian students as "expenditure solely and exclusively for the purposes of business".

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**Mere Existence of Mixed Fund do not Automatically attract Disallowance u/s 14A: Gujarat High Court**

**Gujarat State Petronet Limited vs. The Principal Commissioner of Income Tax**

**Appeal No. 2018 of 2019  
Date - 09.07.2019**

### **Fact of the Case**

- During the relevant year, the assessee made disallowance under section 14A on a suo motu basis and filed its return.
- The Assessing Officer even then made the disallowance u/s 14A r/w 8D, holding that the disallowance u/s 14A can be made on expenditure incurred for earning exempt income

### **Decision of the Case**

- The language of Section 14A of the Act is plain and clear. Before invoking Rule 8D, the Assessing Officer is obliged to indicate that having regard to the accounts of the assessee, he is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to the income which does not form part of the total income under the Act.
- The division bench noted that the issue is already covered by the decision of this Court in Principal Commissioner of Income Tax, Vadodara-1 Vs. Gujarat State Fertilizer and Chemicals Ltd, where it was held, the mere existence of mixed funds will not lead to automatic disallowance under Rule 8D by the AO without recording the requisite satisfaction requisite u/s 14A.
- A two-judge bench of the Gujarat High Court has held that the mere existence of mixed fund would not automatically attract disallowance under section 14A of the Income Tax Act, 1961.

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### **Relief for Google – No Penalty under Section 271(1)(c) if the matter has been admitted by High Court: ITAT**

#### **Google India Pvt. Ltd. vs. The Assistant Commissioner of Income Tax**

**Case No. – 362(Bang)/2013  
Date – 06.09.2019**

### **Fact of the Case**

- The assessee company engaged in the business of providing information technology and information technology-enabled services to its group companies is a subsidiary of Google International LLC, USA.
- The Assessing Officer (hereinafter referred to as the 'AO') observed that assessee under agreement acquired marketing and distribution rights over AdWord Programmes for the territory of India from its U.S. AE.
- AO noticed that there was no deduction of TDS and no 'nil' deduction certificate was obtained.
- The Respondent before the present tribunal in agreement of the view taken by the Commissioner of Income Tax (Appeals)) contended that that the payments made by assessee under the agreement were business profits in the hands of U.S.
- AE paid for purchase of Adword space even though AdWord advertisement spaces was further sold to different advertisers. Hence, penalty order was

passed levying a penalty for alleged 'tax evasion' passed by the CIT (A) shall be upheld.

### **Decision of the Case**

- The Bangalore Bench of ITAT and Smt. Beena Pillai (judicial member) held that the AO initiated penalty proceedings without referring to any charge as to for "concealment of income
- Further, the AO subsequent to order passed by Ld. CIT (A) passes penalty order, wherein penalty has been levied for the deliberateness of "tax evasion", which in our considered opinion is not at all the requirement of Sec.271(1)(c) of the IT Act.
- Furthermore, the admission of the matter before the High Court itself signifies that the issue is certainly debatable and in such circumstances penalty cannot be levied by AO.

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### **Demanding details of Bank Account of a person shall amount to Infringement of his Right to Privacy: Kerala HC**

#### **Raju Sebastian & Sunil Kumar & others vs. Union of India and others**

**WA No. 2112 of 2018  
Date – 4.09.2019**

### **Fact of the Case**

- The appellants conduct petroleum retail outlets on the basis of the dealership agreements executed by them with the oil marketing companies.
- The appellants alleged that the oil marketing companies demanded them to furnish the sales tax returns, bank account statements and income tax returns pertaining to their dealership and on failure, the supply of petroleum products of them would be discontinued.

### **Decision of the Case**

- The division Bench of Kerala High Court held that "There can be no doubt with regard to the fact that details of the bank account of a person constitute personal and private information.
- The statement of account of a person in a bank would reveal the amount in deposit in the bank and the amounts deposited and withdrawn in the past.
- It would give a clear picture of a person's financial capacity. It would disclose the cash transactions which a person had with third parties. It would reveal the amount transferred to and received by a person from another.
- It may show the loans availed of by a person from the bank. Habits of a person, his lifestyle, his association with other persons and many other personal matters can be deduced from close scrutiny of his bank account for some period.
- The Court hence held that a demand of bank details of a person shall amount to infringement of his Right to Privacy.



# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

Date	Return Type
10.10.2019	<b>GSTR-7 for the month of September 2019-</b> to be filed by the by the to be filed by the person who is required to deduct TDS under GST
10.10.2019	<b>GSTR-8 for the month of September 2019-</b> to be filed by the by the e-commerce operators required to deduct TDS under GST
11.10.2019	<b>GSTR-1 for the month of September 2019-</b> <i>Applicable</i> for taxpayers with Annual Aggregate turnover Above Rs. 1.50 Crore or opted to file monthly Return (Rs. 1.50 Crores).
13.10.2019	<b>GSTR-6 for the month of September 2019-</b> to be filed by Input Service Distributor
18.10.2019	<b>CMP 08 for the Quarter of July 2019 - September 2019 -</b> to be filed by Composition Dealer
20-10-2019	<b>GSTR-5 &amp; 5A for the month of September 2019-</b> to be filed by the Non-Resident taxable person & OIDAR
20-10-2019	<b>GSTR 3B -</b> for the month of September 2019..
31-10-2019	<b>GSTR-1 for the Quarter of July 2019 - September 2019 -</b> Applicable for taxpayers with Annual Aggregate turnover UPTO Rs. 1.50/- Crore.

## DIRECT TAX CALENDAR - OCTOBER, 2019

### 07.10.2019

- Due date for deposit of tax deducted/collected for the month of September, 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
- Due date for deposit of TDS for the period July 2019 to September 2019 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

### 15.10.2019

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of September, 2019 has been paid without the production of a challan
- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of August, 2019
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September, 2019
- Quarterly statement of TCS deposited for the quarter ending September 30, 2019
- Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 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 September, 2019

### 30.10.2019

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of September, 2019
- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2019

### 31.10.2019

- Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2018-19.
- Quarterly statement of TDS deposited for the quarter ending September 30, 2019
- Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2019
- Copies of declaration received in Form No. 60 during April 1, 2019 to September 30, 2019 to the concerned Director/Joint Director

## SNAPSHOTS OF TRD



CMA Niranjn Mishra -- Chairman Indirect Tax Committee and CMA Navneet Jain with Mr. Zubair Riaz – IRS, Director (Customs), Ministry of Finance, Govt. of India for discussion of role of CMA in Indirect Tax

## DIRECT TAX MONTH CELEBRATION



Noida Chapter conducted seminar on 29.09.2019

**Theme -** *Income Tax Act and Direct Tax Code - Expectations and Way Ahead.*

CMA Rakesh Bhalla , CCM and Chairman Direct Tax Committee , CMA Anurag Goel, Past Chairman , Speaker - CMA *Mushtaq* Ahmed, CMA Swati Chaturvedi, Chairperson of Noida Chapter , CMA B Ashok Patra- Vice Chairman of Noida Chapter and CMA Pawan Dixit, Secretary of Noida Chapter graced the seminar



Indore-Dewas Chapter conducted seminar on 21.09.2019

**Theme -** *“A New Professional Opportunity as Registered Valuers” for CMA and Other Professionals” and Set off and Carry Forward of Losses - It's Complications in Income Tax Act*

**Chief Guest -** Devesh Gupta (Joint Commissioner, Indore)



Hyderabad Chapter conducted seminar on 21.09.2019  
**Theme - Income Tax Act and Direct Tax Code - Expectations and Way Ahead.**  
**Chief Guest - Y.V.S.T. Sai, IRS, Commissioner of Income Tax & Judicial Member**  
 CMA Dr. Rajendra Prasad Talluri, Speaker, CMA Lavanya K.V.N, Chairperson of Hyderabad Chapter and CMA Khaja Jalal Uddin, Secretary of Hyderabad Chapter graced the seminar

Jamshedpur Chapter conducted seminar on 28.09.2019  
**Theme - Income Tax Act and Direct Tax Code - Expectations and Way Ahead.**  
**Chief Guest - Principal Commissioner of Income Tax, Sri Avinash K Sahay, IRS**  
 Sri R. C. Nandrajog, Ex- Vice President, Tata Steel and other dignitaries graced the seminar



Guwahati Chapter conducted seminar on 28.09.2019  
**Theme - Income Tax Act and Direct Tax Code - Expectations and Way Ahead.**  
**Chief Guest - Shri B. C. Medhi, Joint Commissioner, Income Tax**  
 CMA Mrityunjay Acharjee – Speaker and CMA Rupom Sharma Secretary of Guwahati Chapter graced the seminar

Cuttack Jagatsinghpur and Kendrapara Chapter Chapter conducted seminar on 28.09.2019  
**Theme - Assessment Procedure**  
**Chief Guest - Dy. Commissioner of Income Tax**  
 CMA Niranjan Mishra – Chairman Indirect Tax Committee, CMA H. Padmanahban –CCM and other dignitaries graced the seminar

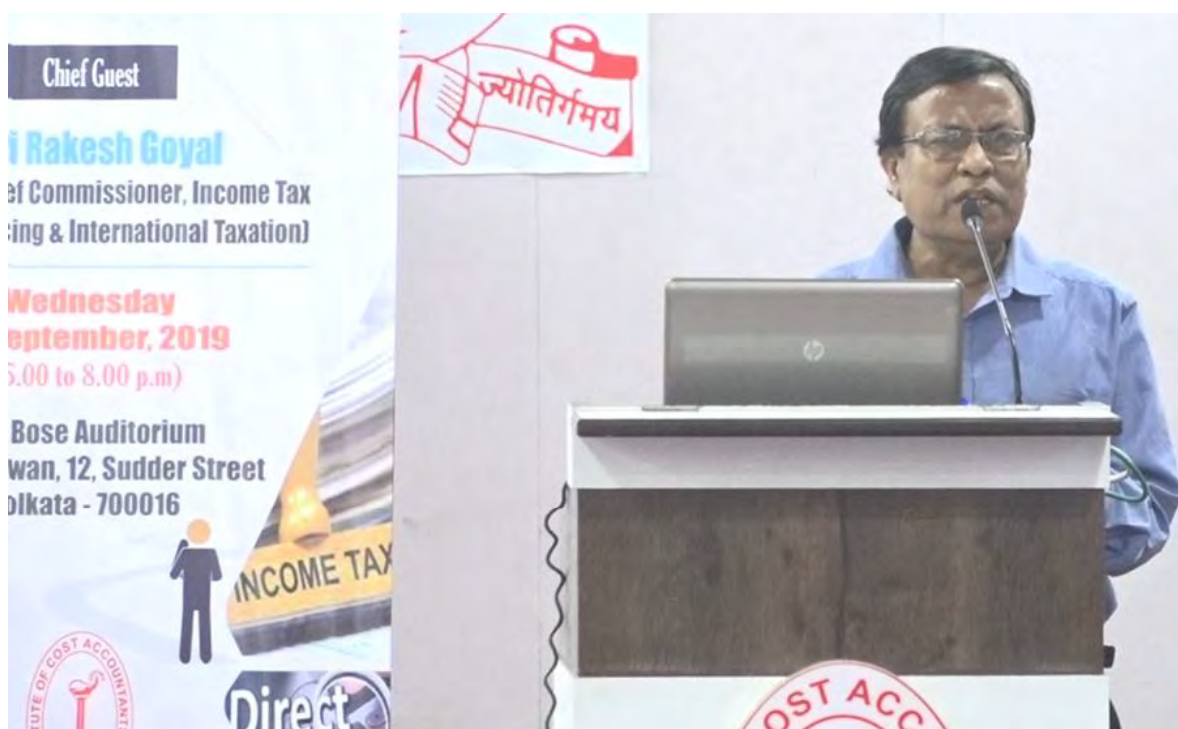


EIRC conducted seminar on 26.09.2019  
**Theme - Compliance under the income tax act 1961 in the present scenario**  
**Chief Guest - Shaikh Shamsher Alam, Additional Commissioner Income Tax**  
  
 CMA Biswarup Basu , Vice-President-ICMAI , CMA

Bhubaneswar Chapter conducted seminar on 25.09.2019  
**Theme – Amendments on Direct Tax, TDS Filing Returns and E-Assessment**  
**Chief Guest - Asit Kumar Mohapatra, Commissioner - Income Tax (TDS)**  
 CMA Niranjan Mishra – Chairman Indirect Tax Committee, CMA H Padmanabhan – Council Member and other dignitaries graced the seminar

C.R.Chatterjee, CCM, CMA Arundhati Basu, RCM-EIRC , CMA T.B.Chatterjee & CMA Ashis Banerjee, RCM-EIRC graced the seminar





ICMAI Head Quarters conducted seminar on 18.09.2019

**Chief Guest** - Shri Rakesh Goyal Principal Commissioner of Income Tax

CMA Biswarup Basu, Vice-President, ICAI, CMA Niranjan Mishra – Chairman Indirect Tax Committee, CMA

Pallab Bhattacharya - Chairman EIRC and CMA Mrityunjay Acharjee graced the seminar

## 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.

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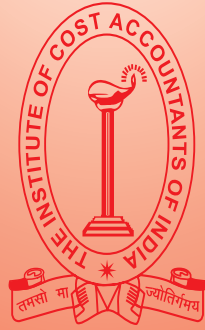
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