

OCTOBER, 2019

TAX Bulletin

★ ★ VOLUME - 50 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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

VISION STATEMENT

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

Objectives of Taxation Committee:

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

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FROM THE DESK OF CHAIRMAN – INDIRECT TAXATION COMMITTEE

It is a real achievement for the Committee that, two years have been completed on 2nd October 2019 for the publication & release of tax bulletin which started way back in October 2017. In these two years number of articles, circulars, notifications & judgements were circulated amongst the members through the fortnightly Bulletin and hope those were of use.

We are blessed to have members, non-members & other stake holders who have been continuously providing us all the updates in the field of indirect taxation through articles and mails.

Representations have been re submitted by the department to CBIC for Circular No. 25/2019-Customs dated 27th August 2019 for Inclusion of Cost Accountants for providing the certificate in different matters relating to Customs. I got the opportunity to meet Ms. V Usha, IRS, Principal Commissioner, Central Excise, Mr. Yoginder Garg, IRS, Principal Commissioner, GST and Mr. Jubair Riaz, IRS, Director Customs in the North block and discussed about the role and contribution of CMAs' in Indirect Tax areas to the economy.

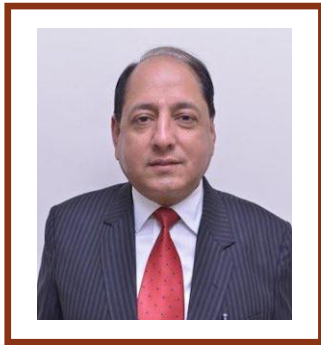
To facilitate the stakeholders in filing their Annual return on GST9, 9A & 9C a number of Seminars and Workshops have been organized by the Institute in Hyderabad, Ahmedabad, Chandigarh, Bengaluru, Trivandrum, Pune, Navi Mumbai, Bhubaneshwar & Jaipur. Further, the Institute is conducting Seminars on Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 through its Chapters to create awareness among the stake holders to take the opportunities on the scheme.

We are optimistic that we be able to continue our efforts for the benefits of the stakeholders.

I wish a Happy Diwali for you and your family.

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

CMA Niranjan Mishra
Chairman, Indirect Taxation Committee
17th October 2019



FROM THE DESK OF CHAIRMAN – DIRECT TAXATION COMMITTEE

I would like to extend my heartiest congratulations to the Tax Research Department for successfully publishing its 49th Tax Bulletin being the 2nd Anniversary edition on 2nd October 2019. Tax Bulletin has become an important information hub for all taxation related issues for different stakeholders since the inception in 2017.

In continuation of the Direct Taxation Month which started in September 2019 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, I am pleased to inform that it has been further extended over a month to November 2019. This would give more time to different Chapters and Regions to conduct seminars and provide knowledge to members and other stakeholders on different matters of Direct Taxation.

The below seminars have been organized by the chapters for celebration of Direct Taxation month viz Durgapur Chapter, Solapur Chapter, Ahmedabad Chapter and Navi Mumbai Chapter and I am expecting more seminars to be conducted by chapters an India over the coming month .

I am thankful for the continuous cooperation and support received from all our members, students and non-members for providing valuable inputs on a regular basis for knowledge enhancement of the profession. We should not only keep our knowledge and wisdom in our ventures, but should also maintain an air of high character, humility, courage and humbleness in ourselves.

I would like to wish all the readers a very happy and prosperous Deepawali. May all the darkness be eliminated by the light of knowledge.

Jai Hind

A handwritten signature in black ink, appearing to read 'Rakesh Bhalla'. Below the signature, the name '(Rakesh Bhalla)' is printed in a smaller font.

(Rakesh Bhalla)

CMA Rakesh Bhalla
Chairman, Direct Taxation Committee
17th October, 2019

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

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



ADVANCE AUTHORISATION FOR DEEMED EXPORT UNDER FOREIGN TRADE POLICY

CMA Utpal Kumar Saha
AGM – Indirect Tax, McNally Bharat Engineering Co. Ltd.

Liability of payment of Customs duty is on import or export of goods. Customs duty on import of goods is paid at the time of filing of Bill of Entry (BoE) for home Consumption. However, as per the provision of section 25 of Customs Act, 1962 Central Government may exempt, either absolutely or subject to specified conditions, duty of customs on importation or exportation of goods.

Notification 21/2015 dated 01st April, 2015 – Central Government has given exemption from the Customs Duty including Additional Duty, Safeguard Duty, Anti-Dumping duty on the materials required for manufacturing of final product when imported into India subject to the various conditions. One of the conditions is –

“Importer has been granted Advance Authorisation for deemed export by the Regional Authority in terms of paragraph 4.05 (c) (iii) of the Foreign Trade Policy permitting import of the said materials”

Advance authorization is issued to allow duty free import of input which is physically incorporated in export product considering normal wastage. Here the word is used input which is indirectly defined in FTP 2015-20 under para 9.44 as “Raw material means input(s) needed for manufacturing of goods. These inputs may either be in a raw / natural/ unrefined/ unmanufactured or manufactured state”. Thus, input is simply raw materials (Input = Raw-Materials).

Advance Authorisation is issued to the Manufacturer Exporter or Merchant Exporter tied to supporting manufacturer. We may say that Advance Authorisation allows manufacturer to import duty free raw materials for manufacture of its product to be exported and also compete in the international market. This is a facility to the manufacture by Ministry of Commerce. Now, we are exploring the definition of two terms manufacturer exporter and merchant exporter.

Manufacturer Exporter means a person who exports goods manufactured by him or intends to export such goods. Para 9.32 of FTP 2015-20.

Merchant Exporter means a person engaged in trading activity and exporting or in tending to export goods. Para 9.33 of FTP 2015-20.

Further, as per para 4.05(c) of FTP 2015-20, Advance Authorisation is issued for -

1. Physical Export including export to SEZ;
2. Intermediate supply;
3. *Supply of goods to the category mentioned in paragraph 70.2 (b), (c), (e), (f) and (h) of the FTP;*
4. Supply of stores on board going vessel/ aircraft.

Third category of supply is known as deemed export under chapter 7 of FTP 2015-20. A manufacturer is entitled to import raw materials without payment of customs duty even he supplies product under deemed export category which is allowable. We are reiterated the categories of supply as per para 4.05(c) (iii) of FTP 2015-20 read with para 7.02 of FTP 2015-20.

7.02 (b) *Supply of goods to EOU / STP / EHTP /BTP;*

(c) *Supply of capital goods against EPCG Authorisation;*

(e) (i) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF, where legal agreements provide for tender evaluation without including customs duty.

(ii) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies/Funds as notified by Department of Economic Affairs (DEA), MoF, for which bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad.

(iii) Supplies covered in this paragraph shall be under International Competitive Bidding (ICB) in accordance with procedures of those Agencies /Funds.

(iv) A list of agencies, covered under this paragraph, for deemed export benefits, is given in Appendix 7A.

(f) (i) Supply of goods to any project or for any purpose in respect of which the Ministry of Finance, by erstwhile Notification No. 12/2012 –Customs dated 17.3.2012, as amended from time to time, had permitted import of such goods at zero customs duty (with exemption of both BCD and CVD) subject to conditions specified therein and which are continued under the Customs Notification No. 50/2017-Customs dated 30.6.2017 with exemption of zero basic customs duty and subject to conditions mentioned in the said new notification. Benefits of deemed exports shall be available only if the supply is made under procedure of ICB.

(ii) Supply of goods required for setting up of any mega power project, as specified in the list 31 at Sl. No. 598 of Department of Revenue Notification No. 50/2017-Customs dated 30.6.2017, as amended from time to time and subject to conditions mentioned therein, shall be eligible for deemed export benefits provided such mega power project conforms to the threshold generation capacity specified in the above said Notification.

(iii) For mega power projects, ICB condition would not be mandatory if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding.

(g) Supply of goods to United Nations or International organization for their official use or supplied to the projects financed by the said United Nations or an International organization approved by Government of India in pursuance of section 3 of United Nations (Privileges and Immunities Act), 1947. List of such organization and conditions applicable to such supplies is given in the Customs notification no. 84/97-Customs dated 11.11.1997, as amended from time to time. A list of Agencies, covered under this paragraph, is given in Appendix-7B.

(h) Supply of goods to nuclear power projects provided:

(i) Such goods are required for setting up of any Nuclear Power Project as specified in the list 32 at Sl. No. 602, Customs notification no. 50/2017-Customs dated 30.6.2017, as amended from time to time and subject to conditions mentioned therein.

(ii) The project should have a capacity of 440 MW or more.

(iii) A certificate to the effect is required to be issued by an officer not below the rank of Joint Secretary to Government of India, in Department of Atomic Energy.

(iv) Tender is invited through National competitive bidding (NCB) or through ICB.

Validity of Advance Authorisation and Revalidation thereof:

In case of deemed export the validity of Advance Authorisation is co-terminus with the duration of the project. However, the concerned RA may consider revalidation for six months from expiry date. The

application of revalidation is in form ANF 4D - Para 4.41 of HBP 2015-20 to be submitted before the concerned RA.

Enhancement/ Reduction of CIF or FOB value in the Authorisation:

RA can enhance the CIF value, quantity of inputs and FOB value, quantity of export of an Authorisation. Application shall be in ANF 4D. However, value addition after enhancement does not fall below the minimum value addition as stipulated in FTP. Para 4.39 of HBP 2015-20.

Registration of Authorisation at the customs port:

Authorisation holder shall register the authorization at the port specified in the authorization and thereafter all the import under said authorization shall be made through only that port. If there is a change of port then the authorization holder shall get permission from the customs authority. However, export can be made any of the port. Authorisation holder at the time of registration of authorization shall furnish a Bond at the Customs port, where import is made before discharge of export obligation.

Documents to be submitted at the time of Export Obligation Discharge Certificate (EODC)

Authorisation holder shall fulfill the export obligation with the specified time period. The export obligation period in case of project in India under category of 7 of FTP shall be co-terminus with the duration of contract or 18 months whichever is more. At the time of filing application of EODC, the following documents are to be submitted before the RA

- i. Application in ANF 4F duly signed by the authorized person;
- ii. Import statement indicating Bill of Entry, Quantity and CIF value duly signed by CMA/CA; (suggested format is given separately)
- iii. Statement of supplies giving details of supply invoices, FOR Value, description of product duly signed by CMA/CA; (suggested format is given separately)
- iv. Consumption statement duly signed by CMA/CA in Appendix 4H;
- v. Payment certificate by the project authority in form Appendix 7D;
- vi. Bank Statement of payment details;
- vii. Customs ledger of import of goods;
- viii. Copy of Bill of entry;
- ix. Statement of Invoices or copy of invoices duly signed by project authority in case of supply of item to a unit producing non-excisable product;
- x. Copy of original Advance Authorisation;
- xi. Statement of Invoices or copy of invoices duly signed by unit receiving materials as well as their jurisdictional central excise authority. **(Note)**

Cancellation or collection of Bond from Customs Authority:

After issuing EODC by the concerned RA, the exporter shall intimate the same before the customs authority where the authorization was registered before importation of inputs. Exporter shall cancel and collect the Bond from customs authority.

Standard Operation Procedure (SOP) for EODC monitoring of both Advance Authorisation and EPCG has been issued vide Policy Circular No 06/2015-20 Dt. 09-01-2019.

Note: Through this article, I request the concerned Directorate General of Foreign Trade (DGFT), New Delhi to waive off the requirement of counter sign by the central excise authority in case of receiving unit producing excisable goods. In practical, the authorization holder is getting harassed from the central excise authority to sign the documents. With the introduction of GST w.e.f. 01-07-2017, instead of central excise authority, a certification from practicing Cost Accountant (CMA) may be included for attestation of quantity, value and date of supply.

Suggested Format of Import and Export Statement for deemed export to be submitted before the office of DGFT is given below:

a. Statement of Import of goods

Sl No	HSN Code	Bill of Entry No	Date	Quantity of Import	Description of Goods	Unit of Measurement	CIF Value (Foreign Currency)	CIF (in Indian Currency)

b. Statement of Export of goods (Deemed Export)

Sl No	Description of Goods	Quantity of supply	Unit of Measurement	Invoice No	Date of Invoice	Value of Goods (FOB)	Payment received

Role of CMA: Foreign Trade Policy 2015-20 has authorized a Cost Accountant to certify all the documents to be submitted before DGFT. In addition to certification work, there are lots of areas like:

- Obtaining different authorizations from the office of DGFT;
- Obtaining of Export Obligation Discharge Certificate (EODC);
- Processing of Refund of Terminal Excise Duty or Duty Drawback;
- Matter relating to EPCG, Advance Authorisation;
- Filing of Appeal before the Appellate Authority of the concerned RA;
- Filing of Review petition before the Directorate General of Foreign Trade (DGFT), New Delhi;
- Acting as an authorized representative (AR).

In addition to the above, there are ample opportunities of cost accountants in DGFT as well as EXIM. The existing Foreign Trade Policy 2015-20 will be expired on 31st March, 2020 and the new policy is coming up with effect from 01st April, 2020. CMA should grab the opportunities as India's export business is growing up many folds.



JOB WORK UNDER GST

[Section 143]

CMA Bhogavalli Mallikarjuna Gupta
Chief Taxologist & Head of Cloud Business
Logo Infosoft Business Technology Private Limited

Introduction

Job work is playing a very important role in the Indian economy. Job work means processing the raw material or semi-finished goods and convert into finished goods as required by the principal manufacturer. This concept was available in earlier law and also exist in in GST with special provision. The benefit of these provisions shall be available for the job worker and principal manufacturer both.

Meaning of Job work

As per section of 2(68) of the CGST Act, Job work means any treatment or process undertaken by person on goods belonging to another registered person (referred as Principal).

The one who does the said job would be termed as 'Job Worker'. The ownership of goods does not transfer to job worker and ownership would be lying with Principal.

The Job worker will be carrying out the process as specified by the principal or owner of goods.

Principal shall be registered person but job worker may be registered or un registered person.

Procedure Aspects related to Job work

A registered manufacturer can send the inputs (raw material or semi-finished goods) or capital goods without payment of tax with certain conditions to Job worker for further processing, repairing etc for as need of manufacture the intermediate or final products as case may be.

Principal can send the inputs or capital goods direct to job worker without bringing into his premises and can avail the credit of said inputs or capital goods.

Time Limit and Place for return of processed Goods

Principal can send the inputs or capital goods without payment of tax to job worker for further processing but after processing the goods **within one year for inputs or three year for capital goods (other than moulds and dies, jigs and fixtures or tools)** rare to be returned or send to:

- Returned to the any place of the business of the principal
- Send to another job worker for further process.
- Remove the goods with payment to third party with in India or without payment in case of export in outside India **but after the declaring his additional place of business of such job worker premises except in a case:**
 - Where the job worker is registered under the section 25 (mandatory registration) or
 - Where principal is engaged in the supply of such goods as may be notified by the commissioner.

Principal shall send the inputs or capital goods to job worker through challan and challan shall contain the details as prescribed in invoice rules.

The responsibility of keeping books or accounts and other details laying with principal. **[Section 143(2)]**

Input tax credit on goods supplies to Job worker

- Section 19 of CGST act provides that the principal can take the credit on inputs or capital goods sent to the Job worker. **[Section 19(2) & (5)]**

Deemed Supply [Section 143(3) & (4)]

- Where **inputs** sent to the job worker for job work but not received back within

the **period one year** of their being sent out, it shall be **deemed** that such inputs have been supplied by the principal to job worker **on the day when inputs sent out the job worker. [Section 19(3)]**

Where the inputs are sent directly to job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

- Where **Capital goods** sent to the job worker for job work but not received back within the period **three year** of their being sent out, it shall be **deemed** that such capital goods have been supplied by the principal to job worker **on the day when capital goods sent out the job worker. [Section 19(6)]**

Where the capital goods are sent directly to job worker, the period of one year shall be counted from the date of receipt of capital goods by the job worker.

- **Section 19(3) and 19(6)** are shall not be apply on the **moulds and dies, jigs and fixtures or tool sent out to a job worker. [Section 19(7)]**

Waste or Scrap Clearing Provision: [Section 143(5)]

- Waste generated at the premises of the job worker may be directly supplies by the **registered job worker** from his place of business with payment of tax. Or
- such waste or scrap may be cleared by the principal in case the **job worker is not registered** under the GST act.

Miscellaneous Points (including amendment and clarification in circular No 88/07/2019 dated: 1st Feb 2019)

- Section 143 of the CGST act, 2017 vide section 29 of the CGST (Amendment) act 2018, empowering the commissioner to extend the return of the inputs and capital goods from the job worker. **[one year in case of inputs and three year in case of capital goods]**
- Responsibility of sending the goods for job work as well as bringing them back or supplying has been cast on the principal.
- Job worker is required to obtain the registration only in case where the aggregate turnover is exceeds threshold limit, whether the principal and job worker are located in same state or

different state. **(Exemption has been granted for interstate supply of services only).**

- Value of mould and dies, jigs and fixture or tools received free of cost from the principal for the job work may not be included the value of job work service provided by the job worker because it will form part of the valuation of the principal for that particular supply.
- E-way bill is must be generated for interstate movement of goods without any monetary limit. **(Rule 138 of the CGST act, 2017)**



GST COUNCIL'S 37TH MEETING - KEY TAKEAWAYS

Prabhakar K S
Proprietor – Shree Tax Chambers

1. Introduction

On 20th September, 2019, as anticipated, the all-powerful Goods & Services Tax Council (hereinafter 'Council'), in its 37th Meeting held in Goa, took certain key decisions. Recent economic slowdown coupled with industries' downward trend and genuine demand for suitable measures has compelled the Central Government to give a thought on further action. Latest proposals, no doubt, in the right direction but revenue forgone (from both GST and Corporate Tax proposals made during the same day) estimated at Rs. 1 trillion to Rs. 1.5 trillion, though short term fiscal pain, yet to see how the Indian economy will do perform in the upcoming festival season. The said decisions may be classified into two broad categories, Recommendations with respect to GST Rates – Goods & Services - and Procedural aspects.

2. Recommendations GST Rates – Goods

The Council has taken certain decision with respect to Goods, key recommendations are as follows:

Goods	Reduced from
Slide Fasteners	18 per cent to 12 per cent
Marine Fuel	18 per cent to 5 per cent
Wet Grinders(stone as a grinder)	12 per cent to 5 per cent
Cut and polished semi- precious stones	3 per cent to 0.25 per cent
Dried tamarind & Plates and cups made up of leaves/ flowers/bark	5 per cent to Nil
Specified goods for petroleum operations under Hydrocarbon Exploration Licensing Policy	5 per cent
Reducion in Cess - Passenger vehicles of engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000 mm designed for carrying upto 13 persons	1 percent in the case of petrol 3 per cent in the case of Diesel, currently attracting compensation cess at 15 per cent.
Goods	Increased to
Railway wagons, coaches, rolling stock (without accumulated Input Tax)	5 per cent to 12 per cent
Caffeinated Beverages	18 per cent to 28 per cent plus 12 per cent compensation cess
Packing of goods - Polypropylene/Polyethylene Woven and Non- Woven Bags and sacks, laminated or not	Uniform GST rate of 12 per cent

Miscellaneous – Goods

The Council has decided to exempt certain goods from GST or Integrated GST on -

- Imports of specified defense goods from GST or Integrated GST which are not manufactured indigenously till 2024.
- Supply of goods to Federation Internationale de Football Association (FIFA) and other specified persons for organizing the Under-17 Women's Football World Cup in India.
- Supply of goods and services to the Food and Agriculture Organisation (FAO) for specified projects in India.

- d) Limited period of concessional GST rate of 12 per cent on pulley and wheels used as parts of agricultural machinery during 1st July.2017 to 31st December, 2018.
- e) It has been decided to exclude 'Aerated drink manufacturers' from composition scheme.



3. Recommendations GST Rates – Services

The Council's recommendations with respect to Services are as follows:

Services	Reduced to
Hospitality - Transaction Value per Unit (Rs) per day Rs. 1000 and less Rs. 1001 to Rs 7500 Rs. 7501 and more	Nil
	12 per cent
	18 per cent
Outdoor catering services other than in premises having daily tariff of unit of accommodation of Rs 7501	5 per cent without Input Tax Credit
Job work services in relation to diamonds	From 5 per cent % to 1.5 per cent
Supply of machine job work in engineering industry except busbody building	From 18 per cent to 12 per cent

Miscellaneous – Services

The Council has decided to exempt certain service sectors from GST on -

- a) Prospective services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres, coffee, tea etc.
- b) Extension of conditional exemption on export freight by air or sea till 30th September, 2020.
- c) Intermediary services to a supplier of goods or recipient of goods subject to supplier and recipient are located outside the taxable territory.
- d) An option to pay GST on royalty charged from publishers under forwarding charge subject to regular compliance.
- e) Supply of services to Federation Internationale de Football Association (FIFA) and other specified persons for organizing the Under-17 Women's Football World Cup in India.

4. Recommendations - Procedural Aspects

The Council has taken certain decisions on procedural aspects to ease the burden on tax payers, they are –

- a) GST Annual Return - With respect to GST Annual Return for the financial year ended 2017-18 and 2018-19, the Council has decided to grant some relief to MSMEs and composite taxpayers -

Form GSTR 9	Optional for those taxpayers who have an aggregate turnover up to Rs. 2 crores.
Form GSTR 9A	Fully waived-off for composition taxpayers
<i>Further, it has been decided to constitute a Committee of Officers (CoO) to examine the simplification of Annual Returns and Reconciliation statement.</i>	

- b) Appeal to GSTAT - Since non-operation of GST Appellate Tribunal, the last date for filing of appeals against orders of Appellate Authority before the GSTAT to be extended. Interestingly, on the same day Meeting, the Hon'ble Madras High Court has pronounced its reserved Judgment while declaring that composition of GST Appellate Tribunal as Unconstitutional. This Author's detailed article titled 'GST & Constitutional Validity of its Key Organs' may be referred for further details at [2018] 95 taxmann.com 123 (Article).
- c) Non-compliance - Certain restrictions on availment of Input Tax Credit (ITC) by the recipients in cases where details of outward supplies are not furnished by the suppliers under Section 37 of the Central GST Act, 2017.
- d) New Return System – In order to give sufficient time to taxpayers to file GSTR 1 and GSTR 3B during last quarter of the financial year, the Council has decided to implement the proposed simplified new return system with effect from April 2020 instead of 1st October, 2019 as decided in one of its previous meetings.
- e) Set of Circulars for uniformity in application of the law across all jurisdictions –
- i. To prescribe a procedure to claim a refund in FORM GST RFD-01A subsequent to favourable order in appeal.
 - ii. To eligible 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.
 - iii. To clarify that supply of IT enabled Services (ITeS services) being made on own account or as an intermediary.
 - iv. To rescind a Circular issued in respect of post-sales discount.
 - v. To bring suitable amendments in Central GST Act, 2017 Union Territory GST Act, 2017, and the corresponding State GST Acts in view of creation of Union Territories of Jammu & Kashmir and Ladakh.
 - vi. To introduce 'Integrated Refund System' by Single Authority with effect from 24th September, 2019.
 - vii. To link Aadhar with the registration of taxpayers under GST and examine the possibility of making Aadhar mandatory for claiming refunds.
 - viii. To prescribe reasonable restrictions to tackle the menace of fake invoices and fraudulent refunds.

To give effect to the aforesaid recommendations with effect from 1st October, 2019, due Notifications will be issued soon.

Concluding Remarks

The Confederation of All India Traders (CAIT), an Industry association has expressed its satisfaction on the aforesaid decisions and recommendations. The Federation of Hotel and Restaurant Associations of India (FHRAI) is also expecting a surge in demand in upcoming festival season and followed by holiday season. However, call for a rate reduction from Auto, Biscuit, FMCG and other Industries were not met due to economic growth hitting a six-year low of 5 per cent. Whether GST Council takes another call on Rate cuts? Rates restructure? Compensation o states beyond 2022? It seems only after studying the Fifteenth Finance Commission's Report which is expected by 31st October, 2019 though detailed presentations on sharing Central Government's tax revenue with States for the next five years starting April, 2020 made during the meeting.



NEW REQUIREMENT IN ITR: SHAREHOLDING OF UNLISTED COMPANY

CA Saurabh Tibrewal
Practicing Chartered Accountant

For the assessment year 2019-20, CBDT has required new reporting requirements in Schedule SH-1 & Schedule AL-1 in the Income Tax Returns for all unlisted companies. However, an unlisted foreign company is not required to furnish details of shareholding as at the end of previous year in the Schedule SH-1 of ITR-6. Further a company registered under Section 8 of Companies Act 2013 or Section 25 of Companies Act 1956 having no share capital is also not required to file Schedule SH-1.

Table-1 of Schedule SH-1: Details of shareholding at the end of the previous year i.e. details of shareholders as on 31st March 2019:

Detailed information of shareholders as on 31st March 2019 is to be provided by Unlisted Companies.

Details of those shareholders who ceased to be shareholder during the financial year 2018-19 will not be shown in this table.

The details required in this table of Schedule SH-1 of ITR-6 are as under-

1. Name of the Shareholder as on 31st March 2019, his PAN & his Residential Status-whether resident/ non-resident/ resident but not ordinarily resident.
2. Type of shares- whether
 - a) Equity shares, or
 - b) Preference shares, or
 - c) Right shares, or
 - d) Sweat Equity Shares, or
 - e) Bonus Shares
3. Number of shares held by him
4. Face Value per share
5. Date of allotment*:
 - a) where shares have been acquired by way of allotment- Date of allotment of shares by the company
 - b) where shares have been acquired by way of transfer- Date on which shares were transferred to the current shareholder as per companies register.

6. Issue Price per share*: Price at which the shares held by respective shareholder was originally allotted by the company i.e. face value plus securities premium per share at the time of allotment
7. Amount received*: Amount actually received by the company at the time of allotment of shares held by respective shareholder (i.e. Number of shares held * Issue Price per share)

***REFER CIRCULAR NO. 26 OF 2019 DATED 26.09.2019 ISSUED BY CBDT**

Table-2 of Schedule SH-1:

Details of equity share application money pending allotment at the end of the previous year:

Detailed information of amount received by the unlisted company against equity shares pending allotment as on 31st March 2019 is to be provided in this table by an unlisted company. Details of those share application, against which shares have already allotted till 31st March 2019 will not be shown in this table, rather the same will be shown in Table-1 itself. The details required in this table of Schedule SH-1 of ITR-6 are as under-

1. Name of the share applicant, his PAN & his Residential Status-whether resident/ non-resident/ resident but not ordinarily resident.
2. Type of shares- whether
 - a) Equity shares, or
 - b) Preference shares, or
 - c) Right shares, or
 - d) Sweat Equity Shares

3. Number of shares applied for
4. Face Value per share
5. Date of application: Date when share applicant has applied for issuance of shares to him
6. Proposed Issue Price per share: Price at which the shares are proposed to be issued i.e. face value plus proposed securities premium.
7. Application money received: Amount actually received by the company at the time of application by the applicant (i.e. Number of shares applied for * proposed issue price per share)

Table-3 of Schedule SH-1:

Details of shareholders who are not a shareholder at the end of the previous year but were a shareholder at any time during the previous year:

Here details of those shareholders who have transferred the shares of an unlisted company during the financial year 2018-19 are to be reported. That means, details of those shareholders who did not have a shareholding as on 31st March, 2019 but had a shareholding during the financial year 2018-19 is to be reported by an unlisted company.

Thus, details of a person who was shareholder during the financial year 2018-19 even for a single day, but not a shareholder as on the close of the financial year 2018-19 i.e. as on 31.03.2019, is to be given in this table of Schedule SH-1 of Form ITR-6, as under.

1. Name of the erstwhile shareholder i.e. shareholder who has ceased to be shareholder during Financial year 2018-19, his PAN & residential Status
2. Type of shares- whether
 - a) Equity shares, or
 - b) Preference shares, or
 - c) Sweat Equity Shares, or
 - d) Bonus Shares
3. Number of shares held by him before cessation
4. Face Value per share
5. Date of allotment*:
 - a) where shares have been acquired by way of allotment- Date of allotment of shares by the company to the erstwhile shareholder.

- b) where shares have been acquired by way of transfer- Date on which shares were transferred to the erstwhile shareholder as per companies register.
6. Issue Price per share*: Price at which the shares held by erstwhile shareholder was originally allotted by the company i.e. face value per share plus securities premium per share at the time of allotment
7. Amount received*: Amount actually received by the company at the time of allotment of shares held by erstwhile shareholder (i.e. Number of shares held * Issue Price per share)
8. Date on which cease to be shareholder: Date of transfer/ sale/ relinquishment of rights
9. Mode of cessation: whether
 - a) Transfer/Sale, or
 - b) Relinquishment of rights
10. In case of transfer, PAN of the new shareholder: PAN of the transferee to whom the shares were transferred.

*REFER CIRCULAR NO. 26 OF 2019 DATED 26.09.2019 ISSUED BY CBDT

Cases where PAN of shareholder is not available:

As per recent circular no. 26 of 2019 dated 26.09.2019 issued by CBDT, 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".

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

GOODS AND SERVICES TAX

NOTIFICATION

Central Tax Notification

Notification No. 44/2019 – Central Tax
Date – 9th October 2019

Seeks to prescribe the due date for furnishing of return in FORM GSTR-3B for the months of October, 2019 to March, 2020

CBIC has specified the due date of furnishing GSTR-3B from October, 2019 to March, 2020

Due Date - On or before 20th day of the month succeeding such month.

Notification No. 45/2019 – Central Tax
Date – 9th October 2019

Seeks to prescribe the due date for furnishing FORM GSTR-1 for registered persons having aggregate turnover of up to 1.5 crore rupees for the quarters from October, 2019 to March, 2020.

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

Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
October, 2019 to December, 2019	31st January, 2020
January, 2020 to March, 2020	30th April, 2020

Notification No. 46/2019 – Central Tax
Date – 9th October 2019

Seeks to prescribe the due date for furnishing of return in FORM GSTR-1 for registered persons having aggregate turnover more than 1.5 crore rupees for the months of October, 2019 to March, 2020

CBIC has extended the time limit for furnishing the details of outward supplies in FORM GSTR-1 of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2019 to March, 2020 till the 11th day of the month succeeding such month.

Notification No. 47/2019 – Central Tax
Date – 9th October 2019

Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.

CBIC has notified that filing of GST Annual Return for those registered persons whose aggregate turnover in a financial year does not exceed Rs. 2 crore rupees and who have not furnished the annual return in respect of financial years 2017-18 and 2018-19 is optional.

According to sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Notification No. 48/2019 – Central Tax
Date – 9th October 2019

Seeks to amend notification No. 41/2019 – Central Tax, dated the 31st August, 2019

CBIC has made following amendments in the Notification No. 41/2019-Central Tax, dated the 31st August, 2019.

Amendment-

- in clause (ii), for the figures, letters and word “20th September”, the figures, letters and word “11th October” shall be inserted.
- Late fees for registered persons whose principal place of business is in the State of Jammu and Kashmir shall be waived with respect to the given forms if the said forms have been filed on or before the given dates:
-

Form	Month	Due Date
GSTR – 1 (where aggregate turnover exceeds Rs. 1.5 crore)	July, 2019	11th October, 2019
	August, 2019	11th October, 2019
GSTR – 7	July, 2019	10th October, 2019
	August, 2019	10th October, 2019
GSTR – 3B	July, 2019	20th October, 2019
	August, 2019	20th October, 2019

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-48-central-tax-english-2019.pdf;jsessionid=E2F24ED4F82B7E581CB4F283F3AA3F5E>

Notification No. 49/2019 – Central Tax
Date – 9th October 2019

Seeks to carry out changes in the CGST Rules, 2017

Suspension of registration

An explanation has been inserted in Rule 21A(3) to clarify that during the period of suspension of registration the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the said period.

Further the supplies made during the period of suspension, the invoice issued can be revised so as to make it a valid tax invoice and the details of such supplies are to be filed in the first return post the revocation of the registration.

Restrictions on availment of ITC

A new sub-rule (4) has been inserted in Rule 36 dealing with conditions for claiming input tax credit.

The availment of ITC with respect to the invoices or debit notes not uploaded by the supplier cannot exceed 20% of the eligible credit in respect of invoices or debit notes which have been uploaded.

Status of GSTR – 3B

Sub-rule (5) shall be substituted, with effect from the 1st July, 2017

Rule 61(5) is amended to provide that GSTR – 3B shall be the “return” specified u/s 39(1). It has also been given a retrospective effect so as to apply the same from 01.07.2017 (date of implementation of GST).

Sub-rule (6) shall be omitted with effect from the 1st July, 2017.

GST Practitioner

Time limit given under Rule 83A(6) for passing the exam by the GST Practitioner has been aligned with Rule 83(3)

Refund

Concept of consolidated payment advice from a single authority for disbursement of refund has already been made operational. Consequent changes have been made in Rule 91.

TRAN – I & TRAN – II extensions

Rule 117(1A) has been amended to permit availment of transitional credits through FORM TRAN – I till 31st December, 2019 in cases where registered persons could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension. In such cases TRAN – II can be filed till 31st January, 2020.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-49-central-tax-english-2019.pdf;jsessionid=0A3BD34AFF5B7CF54ACEA26ACBA0A474>

CIRCULARS

Circular No. 110/29/2019

Date – 3rd October 2019

Eligibility to file a refund application in FORM GST RFD-01 for a period and category under which a NIL refund application has already been filed – regarding

Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in FORM GST RFD-01A/RFD-01 in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.

Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed.

Whenever a registered person proceeds to claim refund in FORM GST RFD-01A/RFD-01 under a category for a particular period on the common portal, the system pops up a message box asking whether he wants to apply for ‘NIL’ refund for the selected period. This is to ensure that all refund applications under a particular category are filed chronologically. However, certain registered persons may have inadvertently opted for filing of ‘NIL’ refund. Once a ‘NIL’ refund claim has been filed for a period under a particular category, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-110.pdf;jsessionid=B896F41753A7CF8408A1E44F0B496927>

Circular No. 111/30/2019

Date – 3rd October 2019

Procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum – regarding

Doubts have been raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in FORM GST RFD-06. Board has clarified the same as follows-

- Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax Rules, 2017 where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in FORM GST RFD-01.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-111.pdf;jsessionid=DFA9B11EBAFC15AAC03C47F4C8D3688C>

Circular No. 112/31/2019

Date – 3rd October 2019

Withdrawal of Circular No. 105/24/2019-GST dated 28.06.2019 – reg.

In Circular No. 105/24/2019-GST dated 28.06.2019, certain clarifications were given in relation to various doubts related to treatment of secondary or post-sales discounts under GST.

Numerous representations were received expressing apprehensions on the implications of the said Circular. Hence, the Board has withdrawn, ab-initio, Circular No. 105/24/2019-GST dated 28.06.2019.

Circular No. 113/32/2019

Date – 11th October 2019

Clarification regarding GST rates & classification (goods) Circular–reg

Representations have been received seeking clarification in respect of applicable GST rates on the following items

- 1) Classification of leguminous vegetables such as grams when subjected to mild heat treatment
- 2) Almond Milk
- 3) Applicable GST rate on Mechanical Sprayer
- 4) Taxability of imported stores by the Indian Navy
- 5) Taxability of goods imported under lease.
- 6) Applicable GST rate on parts for the manufacture solar water heater and system
- 7) Applicable GST on parts and accessories suitable for use solely or principally with a medical device

In this circular above matters have been discussed

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-113.pdf;jsessionid=FE9A5F8EAC6829015F409E4457ED20B4>

Circular No. 114/33/2019

Date – 11th October 2019

Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both – reg

Most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986. A few services particularly technical and consulting services relating to exploration also fall under heading 9983. Therefore, following entry has been inserted under heading 9983 with effect from 1 st October 2019 vide Notification No. 20/2019- Central Tax (Rate) dated 30.09.2019; -

“(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both”

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-114.pdf>

Circular No. 115/34/2019

Date – 11th October 2019

Clarification on issue of GST on Airport levies

Various representations have been received seeking clarification on issues relating to GST on airport levies and to clarify that airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-115.pdf;jsessionid=57DDB5F9E0FFBE3F43CDD3FC4BE709B8>

Circular No. 116/35/2019

Date – 11th October 2019

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors– Reg

This circular has been issued to clarify whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor’s act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-116.pdf;jsessionid=BDDD229D89F5F75A879930D8D63E91CD>

Circular No. 117/36/2019

Date – 11th October 2019

Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.

This circular has been issued to clarify regarding applicability of GST exemption to the Directorate General of Shipping approved maritime courses conducted by the Maritime Training Institutes of India. For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-117.pdf;jsessionid=9FCBEE7D663BC4E0370080CEDACD6B0D>

Circular No. 118/37/2019

Date – 11th October 2019

Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry.

This circular has been issued to clarify on determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in nontaxable territory by using the sample hardware kits provided by the service recipient.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-118.pdf;jsessionid=585641A87EECE0D2BE2272BC129220DB>

Circular No. 119/37/2019

Date – 11th October 2019

Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997 – reg

Securities and Exchange Board of India (SEBI) has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities. Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed. The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.

For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-119.pdf;jsessionid=5C1A8D204F6CE031D6883C566947A299>

Circular No. 120/39/2019

Date – 11th October 2019

Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) – reg

This circular has been issued to clarify to amend the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) to the effect that for the purpose of the said entry, the activities or transactions under taken by Government and Local Authority are excluded from the term 'business'.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-120.pdf;jsessionid=843AF946D87827806CE00822A011DF0F>

Circular No. 121/40/2019

Date - 11th October 2019

GST on license fee charged by the States for grant of Liquor licences to vendors-reg

This circular has been issued to clarify the applicability of GST on license fee charged by the States for grant of Liquor licences to vendors. Services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Same was the position under Service Tax regime also with effect from 1st April, 2016. Tax is required to be paid by the business entities on such services under reverse charge.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-121.pdf;jsessionid=51C80225085188F4F61A57E3FDFBCF40>

Customs - Non Tariff Notification

Notification No.72/2019 - Customs (N.T.)

Date - 3rd October 2019

Exchange Rates Notification No.72/2019-Customs (NT) dated 03.10.2019-reg

CBIC has determined the rate of exchange of conversion of each of the foreign currencies relating to imported and export goods

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	(For Imported Goods)	(For Exported Goods)
Australian Dollar	49.00	46.85
Bahraini Dinar	195.25	183.20
Canadian Dollar	54.45	52.55
Chinese Yuan	10.15	9.80

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt72-2019.pdf;jsessionid=90263EAA60BD453FF250F3DB1E222E51>

Notification No.75/2019 - Customs (N.T.)

Date - 15th October 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, 2001.

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1511 10 00	Crude Palm Oil	534
1511 90 10	RBD Palm Oil	560
1511 90 90	Others - Palm Oil	547
1511 10 00	Crude Palmolein	563

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt75-2019.pdf;jsessionid=F297C0A7E46A8F2DF33AEFEE3C3FAFCB>

Customs – Anti Dumping Duty

Notification No. 40/2019 - Customs (N.T.)

Date – 15th October 2019

Seeks to impose anti-dumping duty on imports of Flat rolled product of steel, plated or coated with alloy of Aluminium and Zinc originating in, or exported from China PR, Vietnam and Korea RP

In case of import of 'Flat rolled product of steel, plated or coated with alloy of Aluminium and Zinc' falling under headings 7210, 7212, 7225 and 7226 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported from China PR, Vietnam and Korea RP and imported into India, the designated authority has come to the conclusion that-

- (i) there is significant increase in imports of subject goods from subject countries in absolute terms as well as in relation to production and consumption in India;
- (ii) the subject goods have been exported to India from the subject countries below their normal values.;
- (iii) the domestic industry has suffered material injury;
- (iv) material injury has been caused by the dumped imports of subject goods from subject countries

and has recommended imposition of provisional anti-dumping duty on the subject goods, in order to remove injury to the domestic industry.

Now, therefore, on the basis of the aforesaid findings of the designated authority, CBIC has imposed a provisional anti-dumping duty.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-add2019/csadd40-2019.pdf>

DIRECT TAX

Notification

Notification No. 78 /2019

Date – 9th October 2019

Notification regarding Kerala Bamboo, Kattuvalli and Pandanus Leaf Workers' Welfare Fund Board

CBDT has notified 'Kerala Bamboo, Kattuvalli and Pandanus Leaf Workers' Welfare Fund Board' (PAN AAAJK1244Q), a Board constituted by the Government of Kerala, in respect of the following specified income arising to that Board, namely:

- (a) Government grant received for Scheme and Non Scheme Pension;
- (b) Contributions received from Employees and Employers;
- (c) Registration Fees;
- (d) Passbook charges collected;
- (e) Cost of duplicate identity card issued;
- (f) Fine collected; and
- (g) Interest earned on (a) to (f) above.

This notification shall be effective subject to the conditions that Kerala Bamboo, Kattuvalli and Pandanus Leaf Workers' Welfare Fund Board,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

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

Notification No. 80/2019
Date – 15th October 2019

Notification regarding Authorized Dealer

CBDT after consultation with the Reserve Bank of India (RBI), has specified,-

- (a) the authorised dealer and its franchise agent and sub-agent; and
- (b) Full-Fledged Money Changer (FFMC) licensed by the Reserve Bank of India and its franchise agent;

maintaining a separate bank account from which withdrawal is made only for the purposes of,-

- (h) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by Reserve Bank of India; or
- (i) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the Reserve Bank of India;

and a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the Reserve Bank of India have been adhered to.

Explanation - For the purposes of this notification, “authorised dealer” means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999).

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

PRESS RELEASE

INDIRECT TAX

PRESS RELEASE

Date -15th October 2019

Manufacture under bond under Section 65 of the Customs Act, 1962 and the launch of microsite

Central Board of Indirect Taxes and Customs has launched a revamped and streamlined program to attract investments into India and strengthen Make in India through manufacture and other operations under bond scheme, under Customs Act, 1962. Section 65 of the Customs Act, 1962 enables conduct of manufacture and other operations in a customs bonded warehouse.

The scheme has been modernized with clear and transparent procedures, simplified compliance requirements ICT-based documentation and account keeping, by issue of Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019 and Circular 34/2019 both dated 01 October 2019.

The main features of the scheme are as below –

- i. A single application cum approval form prescribed for uniformity of practice. The jurisdictional Commissioner of Customs will function as a single point of approval to set up and oversee the operations of such units.
- ii. No geographical limitation on where such units can be set up.
- iii. The unit can import goods (both inputs and capital goods) under a customs duty deferment program. The duties are fully remitted if the processed goods are exported.
- iv. There will be no interest liability and units will benefit through improved liquidity.
- v. GST compliant goods can be procured from the domestic market for use in manufacture and other operations in a section 65 unit.
- vi. A single digital account has been prescribed for ease of doing business and easy compliance.
- vii. The scheme would also enable efficient capacity utilization, as

there is no limit on quantum of clearances that can be exported or cleared to the domestic market.

CBIC has collaborated with Invest India to launch a dedicated microsite for providing information and promoting the scheme and for facilitation of investors. The site can be accessed at <https://www.investindia.gov.in/bonded-manufacturing>

The scheme is expected to play a critical role in promoting investments in India and in enhancing ease of doing business. It can enable the 'Make in India' program, encourage exports, create hubs for electronics assembly, repair & refurbishment operations, inward and outward processing, facilitate global e-commerce hubs etc

DIRECT TAX

PRESS RELEASE

Date - 1st October 2019

CBDT inks the 300th Advance Pricing Agreement

The Central Board of Direct Taxes (CBDT) has signed the 300th Advance Pricing Agreement during the month of September, 2019. This is a significant landmark of India's APA Programme, which is currently in its seventh year.

Three APAs were entered into in September, 2019 (2 Unilateral and 1 Bilateral APA), which has taken the total number of APAs signed by CBDT to 300. During the ongoing fiscal, the total number of APAs entered into has gone up to 29 (27 Unilateral and 2 Bilateral APAs). The Bilateral APA signed in September, 2019 pertains to United Kingdom.

The APAs entered into during September, 2019 pertain to various sectors of the economy like retail, garments, and consumer foods. The international transactions covered in these agreements, inter alia, include provision of software development services, contract manufacturing, provision of IT enabled Services and provision of Support Services.

The APA Scheme continues to make good progress in providing tax certainty to MNEs. It reflects the Government's commitment towards fostering a non-adversarial tax regime.

PRESS RELEASE

Date - 7th October 2019

Launch of faceless assessment in Income Tax Department and inauguration of the National e-Assessment Centre (NeAC)

It may be recalled that, in her budget speech, the Hon'ble Finance Minister, Smt. Nirmala Sitharaman had announced launching of a scheme in 2019 that would provide e-Assessment of Income-tax in electronic mode, in a phased manner, with no human interface. Delivering on the promise made to the taxpayers in the budget speech of the Hon'ble Finance Minister, the Revenue Secretary, Dr. Ajay Bhushan Pandey launched the faceless assessment in the Income Tax Department by inaugurating the National e-Assessment Centre (NeAC) on Monday, the 7th of October 2019 at New Delhi, in the presence of officers of the Income Tax Department located at Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Hyderabad, Bengaluru and Pune, connected through Multimedia Video Conference.

Speaking on the occasion, the Chairman, CBDT, Shri P. C. Mody said that this was a historic occasion for the Income Tax Department when the Department would be able to translate into reality the vision of Hon'ble PM and FM in providing a transparent, efficient and faceless assessment procedure to the taxpayers.

While inaugurating the NeAC, the Revenue Secretary, Dr. Pandey said that it was a matter of great pride for the Department to have set up the NeAC in such a short span of time. He informed the august audience that the seed of faceless assessment was actually sown by the Hon'ble PM in 2017 in the Rajaswa Gyan Sangam. He complimented the Department in taking the vision of Hon'ble PM and FM forward in bringing out the scheme expeditiously. He also exhorted the officers and officials of the Department to keep working harder to meet the high expectations and challenges cast upon them.

Under e-Assessment scheme 2019:-

- i. There would be state of the art Digital Technology for Risk Management by

way of automated examination tool, Artificial Intelligence and Machine Learning, with a view to review the scope of discretion of the officers of Income Tax Department.

- ii. The e-Assessment Scheme introduces the concept of team based assessment with dynamic jurisdiction which would bring about transparency, efficiency and standardisation of procedures by eliminating the human interface between the taxpayer and the Income-tax Department.
- iii. There would be a NeAC in Delhi to be headed by Principal Chief Commissioner of Income-tax,
- iv. 8 Regional e-Assessment Centres (ReAC) at Delhi, Mumbai, Chennai, Kolkata Ahmedabad, Pune, Bengaluru and Hyderabad which would comprise Assessment unit, Review unit, Technical unit and Verification units.
- v. Cases for the specified work shall be assigned by the NeAC to different units by way of automated allocation systems.

In view of the dynamic and all India jurisdiction of all officers of NeAC and ReAC, this kind of connective and collaborative effort of officers is likely to lead to better quality of assessments.

In the first phase, the Income Tax Department has selected 58,322 cases for scrutiny under the e-Assessment Scheme 2019 and the e-notices have been served before 30th of September 2019 for the cases of Assessment Year 2018-19.

The taxpayers have been advised to check their registered e-filing accounts/ email ids and have been requested to furnish reply within 15 days. The Department hopes that with the ease of compliance for taxpayers, the cases would be disposed off expeditiously.

This new initiative of faceless assessment is expected to increase ease of compliance for taxpayers as the cost and anxiety of taxpayers are likely to be greatly reduced. No human interface with the Department would be a game changer. Transparency and efficiency would lead to reduced litigation. Functional Specialization would lead to certainty in tax matters which would lead to increased ease of doing business. Adoption of risk based and focused approach in team based assessment is

expected to standardize procedures by eliminating human interface. The grievances of over pitched assessment by the taxpayers is likely to be greatly reduced and better assessment of income is expected to lead to greater revenue mobilization, thus greater resources for undertaking welfare work for people of India. It is also likely to lead to quicker disposal of cases underlining the fact that "It is a government that works faster!"

PRESS RELEASE

Date - 11th October 2019

Release of Direct Tax Statistics

Central Board of Direct Taxes has been releasing key statistics relating to direct tax collections and administration in public domain from time to time.

In continuation of its efforts to place more and more information in public domain, the Central Board of Direct Taxes has further released Time-series data updated up to F.Y. 2018-19 and income-distribution data for A.Y. 2018-19 (F.Y. 2017-18). The availability of the Time-series data and the income-distribution data in the public domain will be useful for the academicians, research scholars, economists and the public at large in studying long-term trends of various indices of the effectiveness and efficiency of direct tax administration in India.

The new releases are available along with the older publications at www.incometaxindia.gov.in

PRESS RELEASE

Date - 11th October 2019

Income Tax Department conducts searches in Karnataka

The Income Tax Department conducted search on 9th October 2019 on a prominent business group in Karnataka which runs multiple educational institutions. During the course of the search, the modus operandi of conversion of seats which were originally to be allotted by merit through counselling by MCC maliciously into institutional quota seats through dropout system has been unearthed.

Incriminating evidence has been found in the search, substantiating conversion of seats,

commission payments to brokers and sale of seats in exchange of receipt of cash. Evidences of use of multiple agents for conversion of MBBS and PG seats have also been found. Diversion of funds in the form of payment of on-money for the purpose of purchase of immovable assets for the benefit of trustees has also been established including finding of cash in possession of seller, commission in the hands of broker and strong written and audio evidences found in possession of the concerned parties. Evidences of handling of such cash generated, diversion for construction of hotels have also been found. Hawala transactions relating to movement of such cash have also been established. A total of Rs.4.22 crore of unaccounted cash has so far been found including Rs.89 lakh in the house of the main trustee.

Certain students whose names were used in conversion of seats have made statements establishing the modus operandi. Agents have admitted to have aided in sale of seats, brokers have admitted to be witness and accomplice to diversion of such cash generated.

Modus operandi of making cash deposits in the accounts of certain employees & their families and diversion of them to fixed deposits which are used to services loans taken by trustees has been unearthed. Evidence has further brought to light the fact that trustees have opened bank accounts in the names of their employees to deposit some of the capitation fee received in cash. Fixed deposits amounting to Rs. 4.6 crore in the names of 8 employees made in the above manner have been seized. It was further found that the interest from such benami fixed deposits have been used to service the loans taken by the trustees in their personal capacity. Evidences also reveal undisclosed investments in real estate. Overall the total undisclosed income detected so far is around Rs.100 crore considering the cash donations received for 185 seats averaging Rs.50 lakh to Rs.65 lakh per seat and total seizure of undisclosed assets of Rs. 8.82 crore. Further investigations are in progress.

PRESS RELEASE

Date - 12th October 2019

**Income Tax Department conducts searches
on coaching institutes in Namakkal,
Tamil Nadu**

The Income Tax Department, conducted a search action on 11th October, 2019 in the case of a business group based in Namakkal, Tamil Nadu. The group is mainly into running of educational institutions, and coaching institutes for competitive exams like NEET, etc. The group comprises several partnership firms and a trust controlled by a closely knit group of individuals. The search action covered 17 premises including residential premises of the group's promoters. The premises are located in Namakkal, Perundurai, Karur and Chennai in Tamil Nadu.

The search was undertaken on the basis of intelligence that the group was indulging in substantial tax evasion by suppression of fee receipts received from students. The modus operandi was to receive part of the fees in cash and such cash receipts were invariably not entered in the regular books of accounts. Instead, such receipts were maintained in separate set of accounts. Incriminating evidence of such suppression of receipts has been found during the search in the form of accounts maintained in diaries, in electronic storage devices and also in the form of huge sums of unaccounted cash. It was found that cash was kept in lockers in banks in the names of employees who acted as benami or name lenders.

Significant amount of cash was found in a safe inside an auditorium in the main school premises. Unaccounted cash of about Rs 30 crore has been found and seized. The unaccounted receipts are deployed for acquiring immovable properties as personal investments which are then leased for long term to the trust for expanding to other towns. It was also found that highly priced faculty are hired and employed in the coaching institutes and they are paid outside the books. Based on preliminary findings, the undisclosed income of the group is estimated at more than Rs 150 crore. The search is still in progress.

PRESS RELEASE

Date - 12th October 2019

**Income Tax Department conducts searches
on business group in Goa**

The Income Tax Department carried out search operation on 10/10/2019 covering six premises of two groups involved in the sale-purchase of hotel resort at Goa

One of the groups covered currently owns a large property at Goa on which a 5 star resort project is being built. The group is engaged primarily in Hotels & Hospitality, real estate and construction. The buyer, a Delhi Based group of companies is into catering, restaurant and hotel business.

Search operations have been concluded. The search resulted in seizure of undisclosed assets of Rs.4.39 crore comprising undisclosed cash of Rs 2.55 crore and jewellery/valuables worth Rs 1.84 crore. The group made a disclosure of a total amount of Rs 124.41 crore representing undisclosed income and also committed to pay taxes immediately.

JUDGEMENTS

INDIRECT TAX

GST not applicable to Refundable Interest Free Deposit, rules AAR

M/S Rajkot Nagrik Sahakari Bank Ltd. vs. Gujarat AAR

Order No. – GUJ/GAAR/R/9/2019
Date – 15.05.2019

Fact of the Case

- In the present case M/S Rajkot Nagrik Sahakari Bank Ltd. is the applicant
- The issues raised by the applicant before the bench are as follows
 - Whether the refundable interest-free deposit can be considered as “Consideration” for the services provided by RNSB to their Demat account holders;
 - Whether Refundable interest-free deposit which allows depositor some benefit shall attract GST
 - Whether first 10 free transactions subject to maximum of Rupees 5 lakh allowed to the Demat account holder depositing Refundable interest-free deposit would attract GST

Decision of the Case

- The honorable bench held that even though a deposit has been excluded from the definition of consideration by virtue of Proviso to Section 2(31) of CGST Act, notional interest/monetary value of the act of providing the refundable interest-free deposit will be considered as ‘consideration’
- With respect to the second issue, the Authority referred to the Proviso to Section 2(31), which makes it clear that the incumbent amount shall not attract GST.
- With respect to the third issue, it has been held that “the first 10 free transactions allowed to the Demat account holders are in the nature of

the discount and will not attract GST subject to the fulfillment of the conditions prescribed under Section 15(3) of the CGST”

Payments for Supplies received shall disentitle the party to be a ‘Pure Agent’: AAR

Maansmarine Cargo International LLP vs. Maharashtra AAR

Application No. - 04
Date – 15.04.2019

Fact of the Case

- In the present case the applicant, Maansmarine Cargo International LLP is engaged in management consultancy services to ship owners, logistics services through water, etc. in Mumbai.
- The issue raised by the applicant before the Bench is the determination of whether GST shall be applicable on **(a)** the reimbursement of expenses such as salaries, rent, office expenses, travelling cost, etc **(b)** management fees charged by the applicant to the company for managing the outsourced job For the initial issue, the applicant submits that the reimbursement of certain expenditure like the salary of employees, rent of their office, etc

Decision of the Case

- The honorable Bench. Further, the reimbursement shall pertain to establishment costs and shall be used for running their office in India. The provisions of valuation under GST shall hence include all the costs, including the employee cost.
- For the second issue, the Bench held that the services provided by the applicant are in the nature of an ‘intermediary’ since for instance in the transaction where the applicant’s personnel travel to various countries to meet with port agents, shippers to discuss operational efficiency, they would actually be facilitating the supply of services on behalf of their client and not on their own account.

Composite Goods used Primarily as Parts of Railway Locomotives to be classified under Heading 8607 Taxable at 5%: AAR

Kay Pee Equipments Pvt. Ltd vs. W.B AAR

Application No. - 28 of 2019

Date - 01.07.2019

Fact of the Case

- Kay Pee Equipments Pvt. Ltd is the composite goods manufacturer
- Those composite goods is used primarily as parts of railway locomotives to be classified under heading 8607 and taxable @5% GST with no refund of unutilized ITC
- The applicant seeks a ruling on the classification of railway locomotive spare parts manufactured by him for the applicable rate of tax on them.
- The applicant submits that he has been classifying the manufactured goods under the Heading 8607 of the First Schedule to the Customs Tariff Act, 1975 to which the GST Act is aligned for classification in accordance with Circular no. 30/4/2018-GST and relevant Memo issued by the Railway Board.
- The Department states that only the goods classifiable under Chapter 86 when supplied to the railways shall attract 5% GST with no refund. Other goods, even if supplied to the railways, will attract the applicable rate for such goods.

Decision of the Case

- The Bench held that the composite goods manufactured by the Applicant that are used primarily as parts of railway locomotives are to be classified under heading 8607 and taxable @ 5% GST with no refund of the unutilized input tax credit.
- The same classification will apply to the Applicant's other supplies to the railways if they are used primarily as parts of railway locomotives, provide they are not excluded by Note 2 of Section XVII. Supplies other than the above two categories, if any, shall not be classified under heading 8607.

- The West Bengal Authority of Advance Ruling in an application filed by Kay Pee Equipments Pvt Ltd held that composite goods manufactured by the Applicant that is used primarily as parts of railway locomotives are to be classified under heading 8607 and taxable @ 5% GST with no refund of the unutilized input tax credit.

Improving Water Management' and 'Construction of State Highways' fall under Eleventh Schedule are Exempted Supplies: AAR

Sumitabha Ray vs. W.B AAR

Application No. - 33 of 2019

Date - 25.07.2019

Fact of the Case

- In the present case Sumitabha Ray is the applicant
- The applicant provides service in pursuance of government projects pertaining to improving water management and construction of State Highways
- The issue before the present Authority is whether the exemption in terms of Sl. No. 3 of Notification No. 9/2017 - IT (Rate) is available to the service as a Financial Management Specialist and Institutional Development Specialist engaged by the Government of Mizoram.
- The applicant contends that since he is supplying services to the government involving no supply of goods, these services are in relation to the functions enlisted under the Eleventh and Twelfth Schedules of the Constitution.

Decision of the Case

- The Bench held that the applicant involved in government project aiming at improving water management and in government project for improvement and construction of State highways involve functions entrusted to a Panchayat or a Municipality and hence are eligible for exemption.
- The bench analyzed that under the present situation the applicant

provides service as consultant only to the government

- It does not apparently involve supply of goods
- The services are related to the functions functions enlisted under the Eleventh and Twelfth Schedules of the Constitution.
- So the provided service is eligible for exemption under GST

NAA booked Builder Paramount Propbuilt for not passing ITC benefit to Customers

M/s Paramount Propbuilt vs. Shri Gaurav Gulati

Case No. 47/2019
Date -26.09.2019

Fact of the Case

- In the present case Shri Gaurav Gulati is the applicant
- The applicant had filed a complaint on 19.06.2018 before the Uttar Pradesh State Screening Committee on Anti-profiteering alleging that he was not passed the benefit of Input Tax Credit by way of reduction in the price of flat
- The respondent submitted that the assumptions made and the criteria used by the DGAP to assess the profiteered amount was incorrect.
- He stated that in case of a real estate development company, there were multiple kinds of inputs some of which were eligible for ITC in the pre-GST regime; however post-GST, while many of the indirect taxes had been subsumed and ITC was available on inputs.

Decision of the Case

- The Quorum consisting of Sh B.N. Sharma as the Chairman, Sh J.C. Chauhan and Sh Amand Shah as the technical members held that the Respondent has denied benefit of ITC to the buyers of the flats
- That no evidence was produced w.r.t. the calculations after which the impugned amount was achieved and that the ITC benefit was passed.
- That the respondent's contention that he had reduced the prices of the

houses several times keeping in view the market conditions as well as the terms of payment and there is no ground to believe that he had given the benefit on account of the additional ITC which had accrued to him after the introduction of GST.

- The National Anti-Profiteering Authority (NAA) in its case number 47/2019 i.e. Shri Gaurav Gulati v M/s Paramount Propbuilt held Paramount Propbuilt Pvt. Ltd. to be liable of anti-profiteering for not passing on the benefit of ITC arising out of the reduction in the price of flat, on the introduction of GST.

GST Evasion: Rajasthan HC rejects Bail application in ITC Fraud Case

Himani Munjal vs. Union of India & Others

Application No. - 12077/2019
Date -30.09.2019

Fact of the Case

- In the present case Applicant is a criminal petitioner
- Criminal procedure has been started against the petitioner for evasion of GST
- The petitioner has filed the application u/s 439 code of criminal procedure , 1973 seeking regular bail in criminal complaint pending before the court of Chief Metropolitan Magistrate, Jaipur Mahanagar
- The applicant is punishable under section 132(1) (i) and (iv) of CGST Act 2017

Decision of the Case

- The Standing Counsel for GST has submitted that all the accused had created 35 fake firms and after making fake entries had issued invoices involving tax amount of more than 66.81 crores.
- The firms were misused for evading GST input taxes by the accused.
- The fake firms were created in the State of Jammu and Kashmir, West Bengal, Gujarat, Assam, Telangana, Uttar Pradesh and Rajasthan.

- The single judge bench of Rajasthan High Court rejected the bail accused petitioner for seriousness of allegations leveled against him.

DIRECT TAX

Relief to Deepak Kochhar: Supreme Court dismisses Income Tax Department's plea from Reassessing NuPower Renewables

Nupower Renewables Pvt. Ltd. vs. Assistant Commissioner of Income Tax & Other Petitioners

Case No. - 19929/2019

Date - 26.08.2019

Fact of the Case

- In the present case Deepak Kochhar & Nupower Renewables are the applicants
- The income tax department sought to reopen the accounts of NuPower last year to examine the genuineness of investments of about Rs 50 crore by Firstland Holdings in 2011.
- NuPower is being investigated for receiving quid pro quo investments for loans sanctioned to various industrial houses by ICICI when she was at the helm of affairs.
- the department claimed the source, genuineness and creditworthiness of Firstland Holdings which invested Rs. 49.9 crores remain unexplained and needed further investigation.
- The revenue department also claimed NuPower had not fully and truly disclosed all material facts necessary for assessment.
- NuPower challenged the department's move in Bombay High Court on December 12, 2018. It argued that the reopening notice was time-barred since it was issued beyond the permissible period of four years.
- The company argued that there was no additional new material by which reopening of assessment may be started
- The comment of assessing officer "such investment is bogus" is not justified since The channel of movement of the fund, the source of the fund, purpose of investment and ultimate destination of

the fund, were all part of the record during the assessment proceedings.

Decision of the Case

- A division bench of the Bombay High Court set aside the department's reopening notice on March 7 and observed that the income tax officer had all the material information in hand when the assessment was framed.
- The high court had said there was nothing with the assessing officer to prima facie show that the investments were "not genuine."
- The investigation into the source of genuineness and creditworthiness of the investor company would fall within the realm of fishing enquiries, which is wholly impermissible in law in the context of the reopening of the assessment.
- The high court rejected the department's claim that it could reopen assessments even though it may not have additional grounds for doing so.

Sale Consideration of Property under Joint Ownership to be distributed equally for Exemption Limit of TDS: ITAT

M/S Oxica Enterprises Pvt Ltd. vs. Deputy Commissioner of Income Tax

Case No. - 291/Jodh/2018

Date - 06.05.2019

Fact of the Case

- In the present case M/S Oxica Enterprises Pvt Ltd. is the applicant
- The assessee company purchased the residential property which was under joint ownership previously. The assessee deducted TDS @1% of the sale consideration by quoting the PAN of a third party in the sale deed
- According to him, TDS should have been deducted in the name of the actual owners and not in the name of the Power of Attorney holder.
- AO also found fault with the assessee not mentioning the PAN details of the joint owners so AO was of the view that the provisions of sec. 206AA of the Act was applicable and tax was

deductible at source @ 20% of the purchase consideration along with interest and hence created a demand of the said amount.

Decision of the Case

- The matter was upheld before the commissioner of Income Tax (Appeals)³
- The Bench pointed out to section 194-IA of the Act which provides an exception from deduction of tax of 1% to be if the sale consideration for the transfer of immovable property is less than Rs. 50 lacs.
- Since in the present case of joint ownership, the consideration for each joint owner comes below the amount and under the exemption, no TDS shall be deducted.
- The Jodhpur Bench of the Income Tax Appellate Tribunal in the case of M/s Oxcia Enterprises Pvt. Ltd. v. DCIT held that since in the case of joint owners, the sale consideration was to be distributed equally; the individual amounts fell below the limit laying TDS.

Notice to Holder of Bank Account for lien towards payment of Tax Liability to be Quashed where no Notice Served to Joint Holder: Karnataka HC

Mrs. Beena Muralidhar vs. Tax Recovery Officer and Others

Writ Petition No. - 16100/2019
Date - 18th July 2019

Fact of the Case

- The petitioner is the wife of Sri B. Muralidhar, appointed as part-time director of the Company.
- The Company was assessed by I.T Department and held to be liable to pay Rs 29,61,27,320 for which a notice has been issued to the petitioner's husband for marking the said bank account towards lien for arrears of tax liability of the husband of the petitioner.
- The petitioner contends that she jointly holds Savings Bank account with her husband and is the primary account holder of the said account and

that no notice was issued to her in terms of Section 226(3)(iii) of the Income Tax Act on her.

Decision of the Case

- The single Judge Bench held that the mandatory requirement is not complied with by Revenue Department in terms of section 226(3)(iii) of the Act
- The Karnataka High Court in the case of Mrs. Beena Muralidhar v. Tax recovery officer held that wherein a recovery proceeding, no notice was issued to the joint holder of bank account for lien towards the payment of liability, which is a sine qua non for the recovery of tax as provided under Section 226 of the Act, impugned notice stood quashed.

Interest Received on FDRs/ICDs with Bank/NBFCs made out of Unutilized Funds which could not be used in development of Port Terminal is Capital Receipt: ITAT

M/s. Karanja Terminal and Logistics Pvt. Ltd. vs. D.C.I.T

Case No. - 2472,2473 & 5752/MUM/2018
Date - 20.03.2019

Fact of the Case

- M/S Karanja Terminal and Logistics Pvt. Ltd. is the assessee company in the present case
- The assessee company was incorporated to develop, operate a multipurpose port terminal at Karanja Creek, Maharashtra. For the purpose of the port terminal project, the assessee raised share capital as foreign inward remittance from a Cypriot Intermediate company.
- Since the port terminal could not be developed as envisaged and planned and hence the funds received from IPO were put in fixed deposits and ICDs till the resumption of work. Further, interest was received on such deposits, it was treated as capital in nature and no return for income was filed by the assessee.
- The assessee filed his nil return and notice was issued from Assessing

Authority for not showing the interest income in his return.

- The assessee submitted that even if the interest was credited to the profit and loss account resulting into book profit during the year would not change the character of the receipt from capital to revenue and cannot be taxed both under normal provisions and under Section 115JB of the Income Tax Act.
- The AO rejected the contentions of the assessee and similar findings were drawn by the Commissioner of Income Tax (Appeals) (CIT(A))
- The assessee has challenged the order of the CIT(A) on the ground that Interest of Rs. 44.45 Cr has wrongly been held to be a revenue receipt during the period prior to the commissioning of the port terminal at Karanja Creek which has to be reduced from the pre-operative capital expenditure as the development of the port is still under progress and not commissioned.

Decision of the Case

- The Bench constituting of Hon'ble members held that "the interest income received by the assessee from the FDRs/ICDs made out of funds are inextricably linked to the development of port terminal and other infrastructure at Karanja Creek which is yet to be completed and commissioned.
- It was also added that these funds could not be used for the development work of the port due to late issuance of permissions/clearances by the Govt authorities and also due to some local issues.
- Therefore, in our considered view the interest income is a capital receipt and is not taxable at all both under the normal provisions of the Act as well as u/s 115JB of the Act.
- The appeal of the assessee is allowed.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Date	Return Type
18.10.2019	CMP 08 for the Quarter of July 2019 - September 2019 - to be filed by Composition Dealer
20-10-2019	GSTR-5 & 5A for the month of September 2019 - to be filed by the Non-Resident taxable person & OIDAR
20-10-2019	GSTR 3B - for the month of September 2019
31-10-2019	GSTR-1 for the Quarter of July 2019 - September 2019 - 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

DIRECT TAX CALENDAR - NOVEMBER, 2019

07.11.2019

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

14.11.2019

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

15.11.2019

- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2019
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October, 2019 has been paid without the production of a challan
- 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 October, 2019

30.11.2019

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA and section 194-IB in the month of October, 2019
- Annual return of income for the assessment year 2019-20 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
- Audit report under section 44AB for the assessment year 2019-20 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
- Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2018-19
- Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2018-19
- Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during previous Year 2018-19 (Form No. 64)
- Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2018-19) to units holders
- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA
- Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2018-19. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A
- Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2019)
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(1) (if the assessee is required to submit return of income on November 30, 2019)
- Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]
- Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is November 30, 2019)
- Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2018-19 and of foreign tax deducted or paid on such income in Form no. 67. (if due date of submission of return of income is November 30, 2019).

WEBINAR CALENDAR 18th October to 1st NOVEMBER, 2019

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	23.10.2019 (Wednesday)	4:00 - 5:00 PM	TDS notices from Dept & Related penalties	CMA Vishwanath Bhatt
2	31.10.2019 (Thursday)	4:00 - 5:00 PM	Annual Return - GSTR 9A	CMA Abhijit Khasnobis

Please Note: One CEP hour awarded for attending each webinar

SNAPSHOTS - DIRECT TAX MONTH CELEBRATION



Solapur Chapter conducted seminar on 03.10.2019

Theme - New system of Income Tax e-assessment.

CMA Sunil Ingale and other dignitaries graced the seminar



Erode Chapter conducted seminar on 02.10.2019

Theme - ICDS compliance at income tax audit report



Ahmedabad Chapter conducted seminar on 02.10.2019

Mr Haren Bhatt- Chairman of Ahmedabad Chapter, CMA (Dr.) Pradeep Tulsian , Shri Saumya Sheth and other dignitaries graced the seminar



Navi Mumbai Chapter conducted seminar on 29.09.2019

CMA Sushant, CMA Narayanaswamy, CMA Vaidyanathan, CMA Jethani, CMA Virag Shah, CMA S Mohite, CMA Vinayak Kulkarnand other dignitaries graced the seminar



Ranchi Chapter conducted seminar on 22.09.2019

Theme - Income Tax Act and Direct Taxes Code - Expectations and Way Ahead

Chief Guest - Mr. Ratnesh Nandan Sahay, IRS Principal Commissioner of Income Tax, Ranchi

CMA Bidyadhar Prasad – Chairman, Ranchi Chapter, CMA Sanjay Kumar Singh - Past Chairman, Ranchi Chapter, CMA Mrityunjay Acharjee, CMA Mithilesh Kumar Prasad, CMA Pramod Kumar, CMA Arpit Kumar Sinha and other dignitaries graced the seminar

Pune Chapter conducted seminar on 21.09.2019

Theme - TDS Provisions & Case Studies

CMA Shekhar Sane, CMA Abhay Deodhar - Vice Chairman, Pune Chapter, CMA Chaitanya Mohrir - RCM, WIRC and other dignitaries graced the seminar

Discussion the “Role of Cost Accountants” in “Sabka Vishwas [Legacy Dispute Resolution Scheme 2019]”



CMA Nirranjan Mishra – Chairman, Indirect Taxation Committee, CMA Rakesh Bhalla - Chairman, Direct Taxation Committee, CMA Rajat Kumar Basu – Secretary and HOD of Tax Research Department and CMA Navneet Jain, GST Expert discussed the “Role of Cost Accountants” in “Sabka Vishwas [Legacy Dispute Resolution Scheme 2019]” with Ms. V Usha, IRS- Principal Commissioner, Central Excise Policy Wing

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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

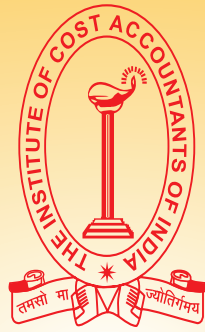
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