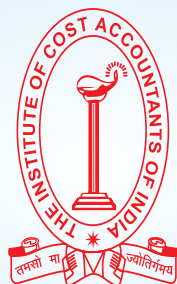


SEPTEMBER, 2019

TAX Bulletin



VOLUME - 47



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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MISSION STATEMENT

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

VISION STATEMENT

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

Objectives of Taxation Committee:

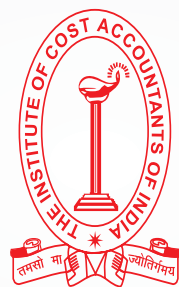
1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to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

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FROM THE DESK OF CHAIRMAN – INDIRECT TAXATION COMMITTEE

I would like to start by wishing everyone a happy and prosperous Ganesh Chaturthi.

The Tax Research Department is striving hard to enrich the knowledge of the stakeholders and has completed the learning sessions of all the Taxation Courses i.e. Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Return Filing and Certificate Course on TDS. The **Examination** of the same is going to be conducted on **15.09.2019**. I wish Good Luck to all the participants.

Webinars have been conducted by the department on the topics 'New Return filing system under under GST' by CMA Vishwanath Bhatt on 23.07.19, 'GST Audit' by CMA Bhogavalli Mallikarjuna Gupta on 29.07.19, 'Recent Amendments to GST in the Finance Bill' by CMA Bhogavalli Mallikarjuna Gupta on 23.08.19 and 'The Finance (No 2) Bill 2019 by CMA Abhijit Khasnobis on 09.08.19. The 45th & 46th Tax Bulletin has also been released.

During the month following representation have been send to the Banks, Governmnet and other agencies for inclusion of CMAs';

1. Representation sent to the Banks including the Nationalised and Private Banks intimating them about the role of Cost Accountants in GST regime and offering crash courses on GST for the bank officials.
2. Requesting to include CMA in the Tender Notice (Ref No. 12 (48)/LC/GST/2016 dt. 5th August 2019) of Tea Board for E-filing of GST Returns, TDS, TCS Returns and other related work.
3. Proposal for extending support to the Govt. to assist the Taxpayers in filling the GST-9, 9A & 9C before the due date of 31st August 2019.

4. Intimation sent to Shri Yogendra Garg, Principal Commissioner - GST Policy on the initiative taken in assisting the stakeholders in filling the GST-9, 9A & 9C before the due date of 31st August 2019.
5. Representation for Requesting to extend due date of GSTR 9 and GSTR 9C to Shri Pranab Kumar Das, IRS Chairman Central Board of Indirect Taxes & Customs.

Again a Crash Course on Goods and Services Tax for colleges and Universities is going to be conducted in Mysore as well. Notifications and Recent amendments (Both Direct & Indirect Tax) are being uploaded in Website time to time for the benefit of Stakeholders & Members.

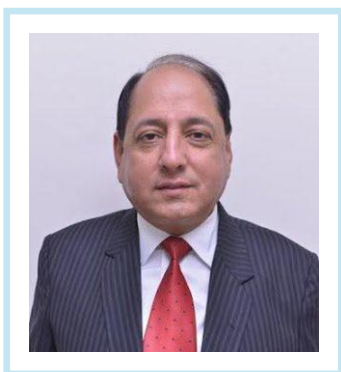
The Institute has participated in a **6th India International MSME Expo & Summits 2019** organized by the MSME Development Forum at Pragati Maidan on 25th August 2019 where our paneled, Taxation Experts have interacted with representatives of MSME units on their queries on GST Annual return and Audit.

Initiative has been taken to work together with the CGST/SGST commissionerates for assisting in Filing GST Annual Return in various locations PAN India.

I again take this opportunity to thank all the contributors to the Tax research department with my heartfelt warm regards.

Thank You.

CMA Niranjan Mishra
Chairman, Indirect Taxation Committee
3rd September 2019



FROM THE DESK OF CHAIRMAN – DIRECT TAXATION COMMITTEE

On the occasion of Ganesh Chaturthi, I wish you and your family all the happiness, prosperity, peace and knowledge.

As we all are aware that the Government is on the verge of introducing the Direct Taxes code (DTC), which shall be replacing the Income Tax Act, 1961 (ITA) and other direct tax legislations like the Wealth Tax Act, 1957, which is an attempt by the Government of India (GOI) to simplify the direct tax laws in India. DTC will revise, consolidate and simplify the structure of direct tax laws in India into a single legislation. This profound initiative of the Government is on the verge of being unveiled.

On 19th August, 2019 the Task force constituted for drafting DTC led by Shri Akhilesh Ranjan has submitted its draft report to Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman. The report has two parts: Recommendations and Draft Bill. Though the report is yet to be placed in the public domain for opinion at large, our Institute's effort to add value to Direct Tax initiatives is on. In this regard, detailed presentation already submitted and meeting held with Mr. Akhilesh Rajan (Chairman Task Force DTC and Member (legislation)), Mr. Anurag Thakur (Minister of state for Finance & Corporate affairs, GOI) and Mr. Rajesh Boot, Joint Secretary, Minister of Finance, for inclusion of Cost Accountant under the definition of "Accountant" u/s 288(2) of Income Tax Act 1961.

The Institute with reference to the above has decided to observe **Direct Taxation Month** throughout India from 5th September 2019 to 5th October 2019 along with the Regional Councils and Chapters. A detailed

advisory will be sent from the Tax Research Department soon.

The seminars to be conducted during the above mentioned period, would emphasize on the contributions that are made by CMAs in the field of Direct Tax. We expect to have Government and Industry participations in the seminar as well. I urge everyone to contribute whole heartedly and make it a grand success.

In addition to the above, I am also aware that the learning sessions of all the Taxation Courses i.e. Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Return Filing and Certificate Course on TDS is completed. The **Examination** of the same is going to be conducted on **15.09.2019**. I wish all the participants "All the Best".

Jai Hind

CMA Rakesh Bhalla
Chairman, Direct Taxation Committee
3rd September 2019

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ACKNOWLEDGEMENTS

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Shri Pallav Kapoor	Advocate, Punjab Haryana High Court, Jalandhar, Punjab
CMA Pankaj Kapoor	Assistant Professor in Management – Finance & Accounts Doon Business School, Dehradun
CA Saurabh Tibrewal	Practicing Chartered Accountant

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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

DECODING CAG REPORT ON GST (COMPLIANCE AUDIT OF UNION GOVERNMENT, DEPARTMENT OF REVENUE (INDIRECT TAXES – GOODS AND SERVICES TAX))



Shri Pallav Kapoor
Advocate, Punjab Haryana High Court
Jalandhar, Punjab



CMA Pankaj Kapoor
Assistant Professor in Management – Finance & Accounts
Doon Business School, Dehradun

About the Report

On 12 July, 2019, a 135 pages report was send by supreme audit institution of India – CAG (Comptroller General of India) to union government of India; same was tabled in Parliament on 30 July 2019. This report is on ‘Compliance Audit of Union Government, Department of Revenue -Indirect Taxes i.e. Goods and Services Tax.

Report whereas records significance of GST in terms of major tax reforms on same outset also acknowledges the issues faced all classes of stakeholder during transactional phase. Report also suggests some of constructive changes in form of recommendation for overall good with real bonafide intention to fill the pitfall, in order to achieve stated objective of this vibrant tax reforms.

This is the first ever report from office of CAG on GST, based upon audits conducted during the year 2018-19. Report is for the year ending on March 2018. Report is classified into four chapters, where chapters majorly deal with implementation status, revenue to government, finding out of IT audit and finding out of compliance audit; respectively.

Chapter 1 - Insight to GST, its features especially the process relating to GST return; and implementation status of GST.

GST was rolled out on 1 July 2017 with both immediate and far reaching objectives, such as eliminating cascading effect, one nation one market, reducing compliance cost through simplified, self-regulating and less/non-intrusive tax compliance regime with help of single IT based interface. GST is landmark tax reform, as it subsume multiple central and state government taxes into dual GST (CGST along-with SGST/UTGST or IGST) and also ensure seamless availability of input tax credit across value chain.

Report highlighted, in term elimination of multiple taxes and subsumes them into one single tax; Government remains successful to a greater extent. As per report the objectives of IT based single window interface for taxpayer has also been achieved to some reasonable extents.

Report also stated ‘simplified tax compliance regime’, which is considered as primary objective of GST is largely remain unreached. This opinion in report is based upon two persuasive reasons, first being, system validated Input Tax Credit through “invoice matching” (i.e. GSTR 2 and 3) is not in place; and second is elusiveness of non-intrusive electronic tax system even after two years of roll out of GST.

Report suggests, these two persuasive evidences become conclusive because, return process which was responsible for ensuring invoice matching; rolled back due to complex mechanism and technical deficiencies. This will not only lead to error/fraud prone system especially in regards of availing ITC, but also point at lack of coordination between the ‘Executive involved in GST implementation along-with user thereafter’ and the ‘IT system developers at GSTN’.

Chapter 2 – Analysis of trends in revenue to Government from GST & GST returns filling, and accounting of IGST.

Revenue analysis – The revenue to government is not growing at speed it was in past, it is mentioned in the report that growth of indirect taxes slowed down to 5.80 per cent in 2017-18 over 2016-17, while this growth rate was 21.33 per cent during 2016-17. It is worth to mention here that union government undertakes the responsibility under GST (Compensation to states) Act to make the loss to state government, good on account of loss of state revenue due to implementation of GST that too at yearly growth rate of 14%. Even revenue to union government on goods and services (excluding central excise on Petroleum and Tobacco) also declined by 10 per cent in 2017-18 (in comparison to revenue of subsumed taxes in 2016-17).

Returns filing – Report stated that there is declining trend in filing of GST returns from April 2018 to December 2018. More surprisingly the numbers of outward supplies (GSTR-1) returns filled were continuously less in comparison to correspondent summary (GSTR-3/3B) returns, this implied that the tax departments did not have complete invoice level details. More so over since GSTR-3B is self-assessed summary return, hence the introduction of GSTR 3B in-place of GSTR-3 returns may result in return filing, with ITC claims; which could not be verified.

Accounting of IGST - Report highlighted a lacuna, in distribution of funds to the States. During 2017-18, union government distributes the year-end balance of IGST to the States as per Finance Commission formula, which is on a completely different basis instead of ‘Place of Supply’ concept as envisaged in the IGST Act. Said distribution is not in alignment to provisions of Constitution of India also.

Chapter 3 – Outcome of IT audit of GSTN - Registrations, Payments and IGST settlement reports

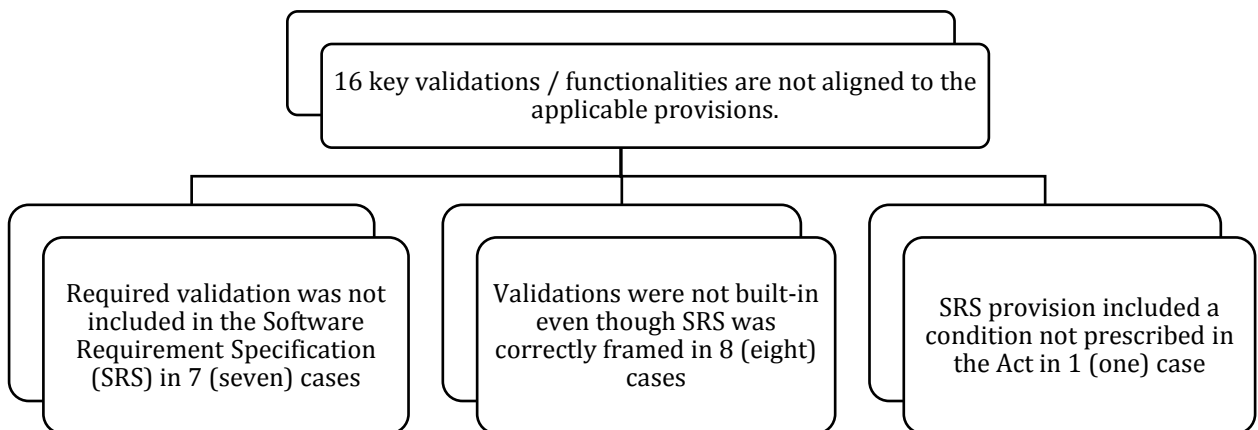


Figure 1 - Outcome of IT audit

Registration Module – Report specify four major lacunas in system validations, which make registration process; non-aligned to GST Act and Rules;

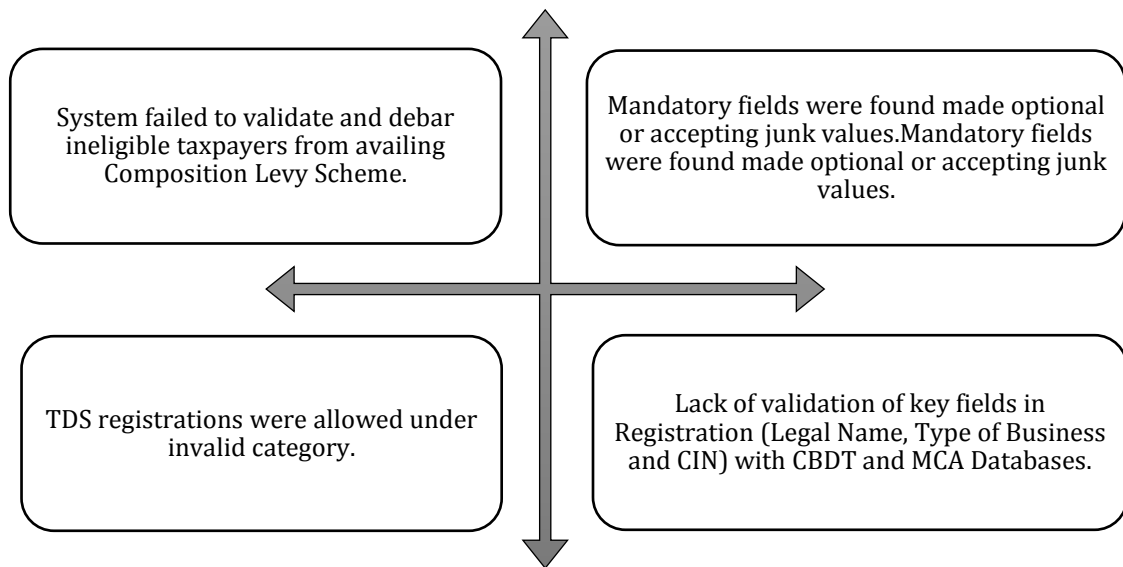


Figure 2 - Deficiencies highlighted in Registration Module

Payment Module – Although payment module is in operation since last two years, but still witness the following shortcomings;

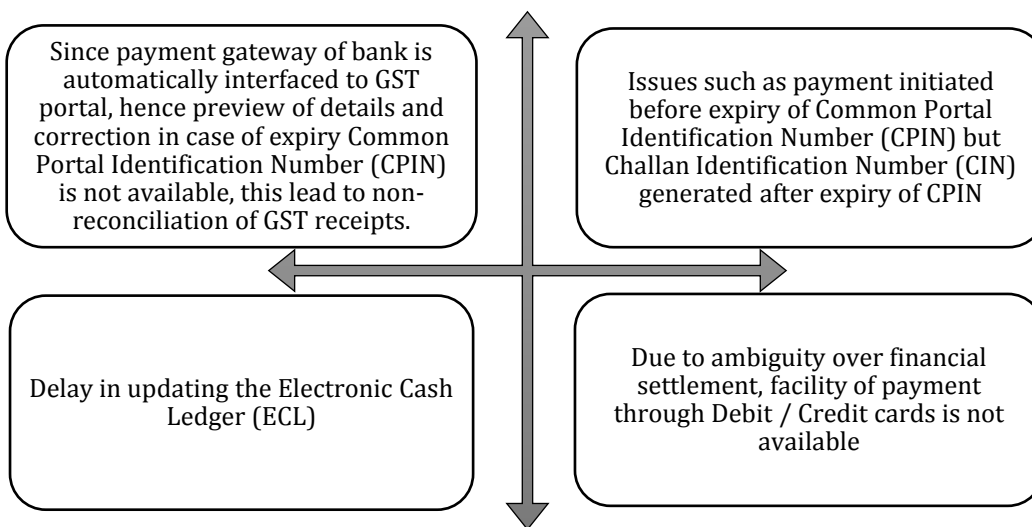


Figure 3 - Deficiencies highlighted in Payment Module

IGST Settlement reports – As per the report, due to ‘non matching of invoice (because GSTR-3B don’t carry enough required details) and ‘non-implementation of module like import and appeals’, correct settlement of IGST is impracticable; because both lead to incomplete IGST ledgers (During 2017-18, IGST balance of Rs. 2,11,688 crores remain unsettled)

Fraudulent and erroneous claim of ITC of IGST also need to be addressed, because report recorded a case, where system allowed the ITC claim of one taxpayer amounting to 79 per cent of total ITC claim by all taxpayers for said month.

Incorrect algorithm is also causing either duplicate record (during July 2017 to July 2018 6,748 cases in 5 Settlement ledgers which leads to inaccurate settlement of Rs. 416.07 crores of IGST is noticed) or picking details of entries from wrong category of taxpayers (during same period mentioned earlier in this para, IGST amounting to Rs. 359.46 crores incorrectly settled) .

Chapter 4 – Outcome of compliance audit of GST - transitional credits, registrations and refunds

Report specify, one of the limitation of compliance audit conducted, that opinion is framed in this chapter is based upon limited scope and number of audits conducted at field; in absence of having access to data relating to GST.

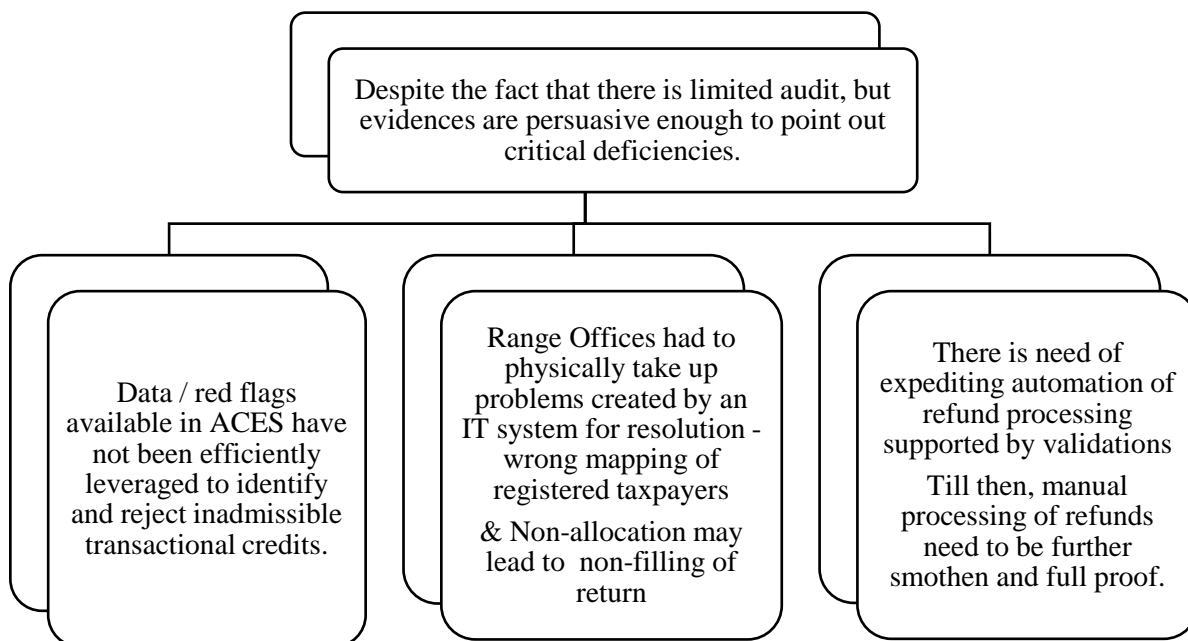


Figure 4 - Findings and recommendations based upon compliance audit

Report stated invoice matching is critical for functioning of GST in order to achieve underlying foremost objective of settling the input tax against output liability to ensure seamless input tax credit. Even settlement of IGST is also dependent upon invoice matching. But even after more than year from the date of enforcement of GST, the system of invoice matching is not robust. Auto invoice matching will lead to twin objective of 'prevent any form of loss of revenue to government along-with equitable settlement of IGST between union and states' and 'reduce the need of manual interaction for assesses to residual level'.



VOLUNTARY DISPUTE RESOLUTION SCHEME

CA Saurabh Tibrewal
Practicing Chartered Accountant

The Finance Bill 2019 has introduced a voluntary dispute resolution scheme called as Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 for resolution of the Legacy disputes under Central Excise, Service Tax etc.

The following is the summary of the payment required in case of different types of disputes:

Nature of dispute	Situation	Relief	Tax Dues	Payment required		
				Tax dues < = Rs. 50 lakhs	Tax dues > Rs. 50 lakhs	Interest, Penalty, Late Fees, Prosecution
Voluntary Disclosure through return or enquiry or investigation or audit	NA	No	NA	NA	NA	NA
A person is convicted of an offence under any IDT provision	NA	No	NA	NA	NA	NA
Filed an application in the Settlement Commission	NA	No	NA	NA	NA	NA
Show cause notice pending on 30th June 2019	Final hearing taken place on or before 30th June 2019	No	Amount as per notice	NA	NA	NA
	Final hearing not taken place on or before 30th June 2019	Yes		30% of tax dues	50% of tax dues	No payment required
	Notice for an erroneous refund	No		NA	NA	NA
	Late fees or penalty only stated in notice	Yes		NA	NA	Full late fees & penalty

Appeals pending on 30th June 2019	Final hearing taken place on or before 30th June 2019	No	1. Single appeal - Amount disputed 2. More than one - Sum of amount disputed by assessee and department	NA	NA	NA
	Final hearing not taken place on or before 30th June 2019	Yes		30% of tax dues	50% of tax dues	No payment required
Order in original or order in appeal passed and no appeal filed	Before expiry of time period for filing appeal	Yes	Entire amount as per the order	40% of tax dues	60% of tax dues	No payment required
	After expiry of time period for filing appeal	No		NA	NA	NA
In return, amount indicated as payable but not paid	NA	Yes	Unpaid amount	40% of tax dues	60% of tax dues	No payment required
Order in appeal attained finality	NA	Yes	Entire amount as per the order	40% of tax dues	60% of tax dues	No payment required
Enquiry, investigation or audit	Not quantified on or before 30th June 2019	No	NA	NA	NA	NA
	Quantified on or before 30th June 2019	Yes	Amount of duty payable	30% of tax dues	50% of tax dues	No payment required

The following are the major points with regard to the payment in this regard:

- Any amount paid as pre-deposit will be deducted when calculating the total amount to be paid under the amnesty scheme
- Where the pre-deposit already paid exceeds the amount payable under the dispute resolution scheme, no amount will be refunded
- Amount to be paid cannot be paid through input tax credit and needs to be paid through cash
- Amount paid cannot be refunded under any circumstances
- The amount paid under the scheme cannot be taken as input tax credit by the supplier or the recipient



SUGGESTIONS ON TAXATION - POST BUDGET MEMORANDUM

CMA Neeraj Gupta

Sr. Vice-President (Accounts & SAP), Avadh Sugar & Energy Ltd.

Item no	Issue	Suggestions	Justification
I	Personal Income Tax :		
1	No change proposed in the basic exemption limit which will remain as under:	The changes are long awaited and hence need to be considered now in the manner given below :	To rationalize the threshold limits
	Sr. Citizen above 80 years - Rs.5.00 Lac Sr. Citizen in age group of 60-80 Years - Rs. 3.00 Lac General - Rs. 2.50 Lac	Sr. Citizen above 80 years - No change suggested Sr. Citizen in age group of 60-80 Years - Rs. 4.00 Lac General - Rs. 3.00 Lac	
2	No change proposed in the rate of income tax for individuals which will remain as under:		To rationalize the slabs and give relief to marginal taxpayers
	Upto respective exemption limit - NIL Amount in excess of respective exemption limit up to Rs. 5.00 Lac - 5% Rs. 5.00 Lac (+1) to Rs.10.00 Lac - 20% Rs. 10.00 Lac (+1) to Rs.15.00 Lac - 30% Above Rs.15.00 Lac - 30%	There should be one more slab between Rs.5.00 Lac (+1) to Rs.7.50 Lac which should be taxed at 10% instead of straight 20%. This rate may be applied from Rs. 7.50 Lac (+1) to Rs.10.00 Lac	
3	No change proposed in the amount exempted u/s 80C which will remain at the same level of Rs.1.50 Lac	This should be increased to Rs.2.00 Lac	It will give boost to savings
4	The benefit of exemption of 40% of the amount received on closure of NPS account or opting out from such account is proposed to be increased to 60% of the amount received.	It should be made exempt up to full amount in case the reason of such closure is any one of these – a) Illness of self or any of dependent family members b) Marriage of ward c) Purchase/Construction/Repair of House for self	To give relief to the Sr. Citizens
5	Date of filing ITR remains same i.e. 31 st of July, though employers get more time to issue Form 16 i.e. by 10 th July which was 15 th of June earlier.	Date of filing ITR should be extended to 31 st August	To provide more time to Assesseees to prepare ITR after obtaining TDS Certificate from Employer

II	TDS Provisions		
1	<p>Due date of filing of TDS & TCS Returns remains the same which are as follows –</p> <p>For TDS – Ist 3 Qtrs. of the year – Within one month of the close of the Qtr. 4th Qtr. of the year - Within 2 months of the close of the Qtr.</p> <p>For TCS – Ist 3 Qtrs. of the year – Within 15 days of the close of the Qtr. 4th Qtr. of the year - Within 45 days of the close of the Qtr.</p>	<p>The due dates for filing of TCS should also be made the same as that of TDS to remove chances of confusion in the mind of depositors</p>	<p>It will ease the compliance of rules as the persons responsible to file the quarterly returns may file all such Returns simultaneously.</p>

ADVANCE RULING IN GST (January 2019 to June 2019)

TEAM TRD

Name of Applicant	Industry	Order No. & Date	Case History
Chowgule & Co Pvt. Ltd	Iron Industry (Goa AAR)	GOA/GAAR/11 of 2018-19/514 Dated 21.05.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of mining, ship building, ship repair & pelletisation. The applicant entered into a contract with NRI to provide job work services by doing conversion of iron ore into pellets. The applicant imported Iron Ore using his own GSTN from NRI and exported iron ore to NRI. The following questions were raised - <p>1. Whether IGST at 5% of assessable value is applicable on import of iron for conversion into pellets and export the resultant product (Iron ore pellets) back to same supplier in view of the fact that import duty is not applicable in view of the exemption under General Exemption No. 66 (Exemption Notification No. 32/97-Cus dated 01st April, 1997) for job work.</p> <p>2. If answer to question 1 is yes, whether the applicant as recipient of imported iron ore will be liable to pay the IGST under applicant GSTIN as the applicant in any case is the consignee of the imported iron ore.</p> <p>Answer – The applicant is liable to pay IGST on import of Iron Ore</p> <p>3. If answer to question 2 is yes, whether the applicant can avail the input Tax Credit for the IGST so paid as per section 16 of CGST Act.</p> <p>Answer – The applicant is eligible for ITC towards payment of IGST u/s 16 of IGST Act</p> <p>4. Whether the applicant can claim refund of unutilised input tax credit on export of services as per section 16(3)(a) of IGST Act and 54(3) of CGST Act.</p> <p>Answer – The applicant is not eligible for refund of unutilized ITC on export of Goods or services u/s 54(3) of the CGST Act.</p>
Chowgule Industries Private Limited	Dealer of Car & Spare parts of Car (Goa AAR)	GOA/GAAR/07 of 2018-19/4796 dated 29.03.2019	<ul style="list-style-type: none"> The applicant purchased vehicles from Authorized Representative for Demonstration Purpose which is one of the part of marketing and sales promotion. In the books of accounts of the applicant, the purchase of vehicle has been capitalized. The following question was raised – <p>Whether ITC on Motor Car purchased for Demo purpose can be availed as credit on capital goods & set off against output tax payable.</p> <p>Answer – The ITC on Motor Vehicle purchased for demonstration can be utilized to set off Output GST</p>
R K Industries	Manufacturer & Exporter (Maharashtra AAR)	GST-ARA-140 /2018-19/B- 54 Mumbai dated 15.05.2019	<ul style="list-style-type: none"> The applicant is manufacturers and exporters of various products consisting of Water Bottles, Lunch Boxes, Pencil box, Milk Mugs, Tea/Coffee Mugs, Milk/Tea/Coffee Mugs with Steel Bidding, Airtight & Leak proof Plastic Food Storage container, Airtight & Leak-proof Steel Food Storage Container, Lunch Boxes with Elegant Pouches, super Lock & Seal Containers, Super Steel Lock container. They also manufacture specially designed Steel mug with plastic outer body, thus utilising the beneficial properties of both substances steel & plastic. The following question was raised – <p>1. Whether Steel Mugs with a plastic outer body supplied by the applicant would be classified under Sl. No 184 of Schedule II of Notification No 1/2017 of Central Tax (Rate) dated 28th June, 2017 (as amended)?</p> <p>Answer – Yes</p>
Terna Public Charitable	Hospital and Research	GST-ARA-135/2018-19/B-	<ul style="list-style-type: none"> The Applicant runs a hospital and Research Centre under the name and style "Terna Specialty Hospital & Research

Trust	Centre (Maharashtra AAR)	55 Mumbai dated 21.05.2019	<p>Centre'</p> <ul style="list-style-type: none"> The hospital owns and runs a pharmacy. During the course of treating the in-house patients admitted in the hospital, medicines, surgical items, implants, consumables and allied items are used. For proper care and watch by doctors/nurses a room on rent and food from Hospital Canteen under the supervision of dietician is provided to the in-house patients as a part of overall health care. GST is not charged on the medicines, surgical items, consumables and allied items used for treating such in-house patients. Further, a room provided on rent and food provided from Hospital Canteen to the in-house patients is also not charged to GST. However at present the GST is charged to out-patients, (OPD patients) treated by Hospital who buy medicines, surgical items, consumable, implants and other allied items for their use. Further very few walk-in customers with prescriptions of outside doctors/Hospitals also buy medicines & allied items from hospital owned Pharmacy which are also charged GST. The following questions were raised – <p>1. <i>Whether the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through the hospital owned pharmacy, as well as food, room on rent to the in-patients is part of composite supply of health care treatment; and hence not taxable under CGST/SGST?</i></p> <p>Answer – Patients live in the hospital,, during the course of provision of healthcare services by the hospital to the patients admitted for diagnosis or treatment in hospital. Supply of medicines, consumable, implants and allied items provided by the hospital through the pharmacy, as well as food, room on rent to the in-patients is part of composite supply of health care treatment.</p> <p>There in this case , supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through the hospital owned pharmacy, as well as food, room on rent to the in-patients is part of composite supply of health care treatment and hence not taxable under GST Laws.</p> <p>2. <i>Whether the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through the hospital owned pharmacy to the out-patients, is part of composite supply of health care treatment; and hence not taxable under CGST/SGST?</i></p> <p>Answer – Out-patients are those who visit the hospital for routine check-up or clinical visits. So far as out-patients (OPD patients) are concerned, hospital gives only prescription. There is freedom to procure the medicines or allied items prescribed, either from the pharmacy owned by the hospital or from outside medical stores. Hospital has no control over their continuous treatment of such patients. So the transaction is not covered under composite supply, and is therefore out of purview of the Sr.No.74 mentioned above and GST is liable to be paid on such sale effected by the pharmacy.</p>
Security And Intelligence Services (India) Ltd	Security Service Provider (Maharashtra AAR)	GST-ARA-125/2018-19/B-58 Mumbai dated 24.05.2019	<ul style="list-style-type: none"> The applicant is Security and Intelligence Services (India) provider to various entities all over India and have different type of customers included educational bodies and higher educational Institutions like IITs etc. The applicant is providing services to Visvesvaraya National Institute of Technology, Nagpur (VNIT). VNIT as an institute was established in the year 1960 under the scheme sponsored by Govt. of India and Govt. of Maharashtra. The following questions were raised – <p>1. <i>Whether the services provided to Visvesvaraya National Institute of</i></p>

			<p><i>Technology, Nagpur will qualify for exemption under Serial 66 of Notification 12/2017 – Central Tax (Rate) dated 28th June 2017, considering it to be an educational Institution.</i></p> <p>Answer – Exemption will not be available</p> <p><i>2. Whether rate of tax on services provided to Visvesvaraya National Institute of Technology, Nagpur (VNIT) is nil as per Serial no 3 of Notification No 12/2017-Central Tax (Rate) dated 28th June 2017</i></p> <p>Answer – VNIT has neither been set up by an Act of Parliament or a State Legislature; nor has been established by any Government, with ninety percent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution or to a Panchayat under Article 243G of the Constitution. Hence they cannot be considered as a “Governmental Authority”. Therefore Sr. No. 3 of Notification No. 12/2017 is also not applicable in the subject case.</p>
Nikhil Comforts	Air-conditioning work (Maharashtra AAR)	GST-ARA-127/2018-19/B-59 Mumbai dated 24.05.2019	<ul style="list-style-type: none"> The applicant entered into an agreement with Goa State Infrastructure Development Corporation Ltd for execution of Additional Air-conditioning work for the New building of Director of Education at Porvorim, Goa.” The scope of work comprises of supply of various Components(Supply, Installation, Testing & Commissioning of VRF 4 Way Cassette Units., Supply, Installation, Testing & Commissioning of VRF Hi- Wall Units.) The following questions were raised – <p><i>1. The transaction would be classifiable to cover under the definition of "works contract" liable to CGST/SGST/IGST covered under Sr. No 3 Item 3 of Notification No 20/2017 (Central Tax Rate) dated 22/08/2017.</i></p> <p>Answer – No</p> <p><i>2. The transaction is Composite supply liable to tax at the rate applicable to Air-Conditioners which are the principal goods involved in the transaction under Schedule IV, Sr. No 119 of Notification No 1/2017 (Central Tax Rate) dated 28/06/2017.</i></p> <p>Answer –Yes</p>
Colo Color (Prop. Hiral Pinkal Rambhia)	Retail chain of Digital Labs & Studios (Maharashtra AAR)	GST-ARA-132/2018-19/B-60 Mumbai dated 24.05.2019	<ul style="list-style-type: none"> The applicant is a Retailer, whole seller , Institutional seller of various equipments of Digital Printing The applicant operates a retails chain of 19 labs under the brand name “Colo Photo Shop” The applicant is associated to more than 25000 photographs. The following question was raised – <p><i>1. Whether the activity of merely printing or reproducing the content given by the photographers / retail customers on pen drive, CD, memory card or any other storage media will be classifiable under Service Code 998912 or 998386?</i></p> <p>Answer – The activity of merely printing & reproducing the content given by the photographers/retail customs on pen drive , CD, Memory Card or any other storage media will be classified under SAC Code 998386 & liable to tax @18%.</p>
Mayank Jain	Marketing and advisory services (Maharashtra AAR)	GST-ARA-103/2018-19/B-63	<ul style="list-style-type: none"> Applicant is a retail chain of digital labs and studios. The applicant is providing marketing and advisory services in relation to the Employee Based Immigration The Applicant wants to provide certain services in the nature of marketing and intelligence to the "Consultant Manager" acting for the Regional Centre or Company enabling them to receive investments from prospective investors. The following question was raised – <p><i>1. Whether the Marketing services to be supplied by the Applicant under the Foreign Immigration Advisor to the Consultant Manager constitutes a supply of "Support services" classified under SAC 9985 or "Intermediary service" classifiable under SAC 9961 / 9962 or any other heading?</i></p> <p>Answer – The services to be supplied by the Applicant under the Foreign Immigration Advisor to the Consultant Manager constitutes a supply of "Intermediary services" classified under SAC 99S5.</p>

			<p>2. Whether the Handholding services to be supplied by the Applicant under the Foreign Immigration Advisor Agreement constitute a supply of "Support services" falling under SAC 9985 or "Intermediary service" classifiable under SAC 9961 / 9962 or any other heading?</p> <p>Answer – In view of the discussions made above, the Handholding services to be supplied by the Applicant under the Foreign Immigration Advisor to the Consultant Manager constitutes a supply of "intermediary services".</p> <p>3. Whether the Marketing services to be provided by the Applicant will be an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?</p> <p>Answer – No</p> <p>4. Whether the Handholding services to be provided by the Applicant will be an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?</p> <p>Answer – No</p>
Nexture Technologies Private Limited	Manufacturer of Plastic Material (Maharashtra AAR)	GST-ARA-130/2018-19/B-64 Mumbai dated 01.06.2019	<ul style="list-style-type: none"> The applicant is engaged in manufacture and supply of following goods Plastic handle for motor vehicle doors (Including lever handle) Plastic fittings for such for motor vehicle's doors such as(Bracket , Housing , Bracket housing , asket , tator) , Glove box locking. The following question was raised – <p>1. Determining classification and applicable rate of goods and services tax for the following products: (i) Door-handle of motor vehicle; (ii) Fittings made of plastic for motor vehicle's doors such as bracket, housing, bracket housing, stator, gasket; and (iii) Glove box locking</p> <p>Answer –All the goods mentioned above are classifiable under Chapter 3926 and will be taxable to GST at the rate applicable to that heading.</p>
Navi Mumbai Municipal Corporation	Service Provider (Maharashtra AAR)	GST-ARA-122/2018-19/B-68 Mumbai dated 10.06.2019	<ul style="list-style-type: none"> The Applicant, M/s. Navi Mumbai Municipal Corporation, a Municipal Corporation is formed & governed by Bombay Provincial Municipal Corporation Act, 1949. It caters to the civic services to the residents of city which are specified by Clause 243 W of Constitution of India, such as activity in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement & upgradation Health services etc. These activities are included activity in Capital & Revenue nature. These activities are carried out by the Corporation without any commercial motive. It works under Urban Development Department of Government of Maharashtra being Local Authority: The following questions were raised – <p>1. Whether online tendering to be considered as Supply of Goods or Supply of Services.</p> <p>Answer – Online tendering will be considered as Supply of Services.</p> <p>2. Whether offline tendering to be considered as Supply of Goods or Supply of Services.</p> <p>Answer – Offline tendering in its entirety involving sale of form, payment of tender fees and submission of bids etc. will be considered as Supply of Services.</p> <p>3. Under which tariff head the Online Tendering should get taxed.</p> <p>Answer – Online Tendering should get taxed under services heading 9997.</p> <p>4. Under which tariff head the Offline Tendering should get taxed.</p> <p>Answer – In view of the above discussions Offline Tendering will be treated as supply of service under services heading 9997.</p> <p>5. If tendering is service then whether it will be considered as administrative service or specific service.</p> <p>Answer – In view of the discussions made above we find that tendering will be covered under the residual Services Heading 9997.</p>

Imperial Motor Stores	Automotive Dashboard Instruments (Maharashtra AAR)	GST-ARA-124/2018-19/B-69 Mumbai dated 10.06.2019	<ul style="list-style-type: none"> The applicant is the Distributors of Veethree Range of Automotive Dashboard Instruments, Clusters & sensors. Instruments are mounted on front end of Cars, Trucks, Tractors, TWO Wheelers, Three Wheelers Compressors etc, as also Stationary Engines. The following question was raised – <p>1. Classification of Instruments Cluster Whether Fall Under 8708 or 9026/9029.</p> <p>Answer – Classification of Instrument Cluster is covered under HSN 8708, as parts of motor vehicles.</p>
Vidarbha Infotech Private Limited	Dealership in computer hardware (Maharashtra AAR)	GST-ARA-131/2018-19/B-70 Mumbai dated 13.06.2019	<ul style="list-style-type: none"> That M/s Vidarbha Infotech Pvt Ltd a company was carrying on the business comprising of dealership in computer hardware, software and peripherals and in the service sector segment covering the construction of IT Park, towing van activity. The services rendered by the contractor fall under one of the services i.e. clause the: (e) Water supply for domestic, industrial and commercial purposes, of article 243 W of the constitution which was actually rendered to Nagpur Municipal Corporation through NESL That the NESL is 100% subsidy of Nagpur Municipal Corporation. The following question was raised – <p>1. <i>Whether the contract from Nagpur Environmental Services Ltd (NESL) Nagpur (a 100% subsidiary of the Nagpur Municipal Corporation, Nagpur) for providing services for the management of Non-Network Tanker with the help of GPRS system at Nagpur would be exempt from GST since it falls under the various exempt services in the article 243 W of the constitution of India as well as services rendered to a local authority,</i></p> <p>Answer – Yes</p>
Wilhelmsen Maritime Services Private Limited	Warehousing Service (Maharashtra AAR)	GST-ARA-136/2018-19/B-71 Mumbai dated 15.06.2019	<ul style="list-style-type: none"> Wilhelmsen Maritime Services Pvt Ltd (herein after referred to as "WMSPL"), has the largest maritime services network in the world supplying a wide portfolio of maritime goods and services worldwide to every conceivable vessel type, in every market and region. WMSPL has three major business activities: A. Maritime Products B. Ships Agency C. Maritime Logistics <p>The following question was raised –</p> <p>1.The advance ruling is sought to confirm whether this supply will fall under Schedule III of CGST Act.</p> <p>Answer – In view of the discussions made above, supply from Bonded warehouse will fall under Schedule III of CGST Act "and exempted from GST and supply from Non-Bonded warehouse will not fall under Schedule III of CGST Act "and therefore not exempted from GST</p> <p>2.The advance ruling is sought to confirm whether the supply will be termed as Exports of Goods. If No, then what will be the supply, whether Intra State or Inter State and which Tax will be levied CGST and SGST or IGST.</p> <p>Answer – Not answered in view of discussions made above.</p>
National Institute Of Bank Management	Academic cum Training Institute for Banks (Maharashtra AAR)	GST-ARA-139/2018-19/B-75 Mumbai dated 25.06.2019	<ul style="list-style-type: none"> NIBM is registered as a society under the Indian Society Registration Act (XXI) of 1860. RBI, State Bank of India (SBI) & Other Public Sector Banks were the first members of Governing Board of this society to which, by rules of the society, the management of its affairs was entrusted. Copy of Memorandum is attached for reference. The following question was raised – <p>1. <i>Whether consideration paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management (NIBM); a society registered under Societies Registration Act, 1860 by its members</i></p>

			<p>(being Banks) for its recurring and non-recurring expenses is leviable to GST?</p> <p>Answer – Yes</p>
Hyva India Pvt. Ltd	Hydraulic Kit Manufacturer (Maharashtra AAR)	GST-ARA-96/2018-19/B- 20 Mumbai dated 18.02.2019	<ul style="list-style-type: none"> The applicant is a Hydraulic Kit Manufacturer which is used with other tipping parts to lift the body of a truck .The following question was raised – <p>1. <i>What is the appropriate classification and rate of GST on the supply of such "Hydraulic Kit" cleared to dealers / distributors or OEMs cleared as such, which comprises of the Hydraulic cylinder and wet kit (with or without pump).</i></p> <p>Answer – Will be classified under heading 8412 as other engines & motors</p>
Western Concessions Private Limited (formerly known as H-Energy Gateway Private Limited)	Regasification of Liquefied Natural Gas (Maharashtra AAR)	GST-ARA-94/2018-19/B- 22 Mumbai dated 22.02.2019	<ul style="list-style-type: none"> The applicant is engaged in regasification of Liquefied Natural Gas and delivering the same to customers. The applicant is setting up a Liquefied Natural Gas (LNG) re-gasification project at Jaigarh port in the state of Maharashtra (hereinafter referred to as "LNG Terminal"). The LNG Terminal consists of a Floating Storage Regasification Unit ("FSRU") with 4 MMTPA regasification capacity moored to jetty and has associated facilities like gas unloading arm, gas pipeline for delivering natural gas from the FSRU to the National Grid. The re-gasified LNG is required to be inducted into the cross-country pipeline/national Grid in order to be supplied to the ultimate customer. Therefore, the applicant is constructing a gas pipeline for delivering the high pressure natural gas from the FSRU to the National Grid. The Development of the project consists of two legs as mentioned below:- <p>(a)Setting up of infrastructure facility, i.e., jetty, onshore receiving facility close to the jetty, etc. for enabling FSRU to regasify the LNG; and</p> <p>(b)Connecting the Terminal with the cross-country gas pipeline to enable supply of re gasified natural gas to customer (referred to as the "Tie in Pipeline"). The following question was raised –</p> <p>1. <i>Whether the applicants are eligible to avail ITC of GST paid on goods and services used for construction of Tie-in pipeline, for delivery of re-gasified LNG from FSRU to the National Grid.?</i></p> <p>Answer – The applicants are not eligible to avail ITC of GST paid on goods and services used for construction of Tie-in pipeline, for delivery of re-gasified LNG from FSRU to the National Grid.</p>
Sun Pharmaceutical Industries Ltd.	Pharmaceutical Product (Maharashtra AAR)	GST-ARA-88/2018-19/B- 10 Mumbai dated 23.01.2019	<ul style="list-style-type: none"> The applicant is engaged in manufacturing of Pharmaceutical & allied Product The applicant is also engaged in manufacturing of nutritional product Prohance - D (Chocolate). The following question was raised – <p>1. <i>What is the appropriate classification of the Applicant's product, Prohance - D (Chocolate)?</i></p> <p>Answer – 21069050</p>
The Kreations Builders & Developers	Auctioneer (Maharashtra AAR)	GST-ARA-86 /2018-19/B- 07 Mumbai dated 15.01.2019	<ul style="list-style-type: none"> The applicant is the auctioneer dealing in various goods such as painting, vintage Collectibles etc. The following question was raised – <p>1. <i>Whether Applicant is dealing in second hand goods and tax is to be paid on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017?</i></p> <p>Answer –The liability will be discharged by the applicant on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017 only in respect of old cars , old jewellery, old watches</p> <p>2- The classification and HSN code of goods listed in table given in "Issues for Determination" and GST rates applicable to such goods.</p>

			<p>Answer -</p> <table border="1"> <thead> <tr> <th>Item</th> <th>HSN Code/SAC Code</th> <th>GST Rate</th> </tr> </thead> <tbody> <tr> <td>Paintings</td> <td>9701</td> <td>12%</td> </tr> <tr> <td>Old Cars</td> <td>8703</td> <td>28%</td> </tr> <tr> <td>Old Jewellery</td> <td>7113</td> <td></td> </tr> <tr> <td>Antique Jewellery (more than 100 years)</td> <td>97060000</td> <td>12%</td> </tr> <tr> <td>Old watches</td> <td>9101</td> <td>18%</td> </tr> <tr> <td>Antique watches (more than 100 years)</td> <td>97060000</td> <td>12%</td> </tr> <tr> <td>Antique Books (more than 100 years)</td> <td>97060000</td> <td>12%</td> </tr> </tbody> </table>	Item	HSN Code/SAC Code	GST Rate	Paintings	9701	12%	Old Cars	8703	28%	Old Jewellery	7113		Antique Jewellery (more than 100 years)	97060000	12%	Old watches	9101	18%	Antique watches (more than 100 years)	97060000	12%	Antique Books (more than 100 years)	97060000	12%
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NR Energy Solutions India Pvt Ltd	Manufacture, export and supply of Electrical Control Panels(Maharashtra AAR)	GST-ARA-83/2018-19/B- 3 Mumbai dated 08.01.2019	<ul style="list-style-type: none"> M/s. NR Energy Solutions Private Limited ("Taxpayer") is engaged in the business of manufacture, export and supply of Electrical Control Panels, Power System, protection, automation, flexible AC transmission system, HDVC transmission etc. The Taxpayer was awarded turnkey projects for certain Electrical components at various sites/ locations. The following question was raised – <p>1. Whether the transaction / contract referred in the present application to M/S APTRANSCO is in the nature of Works Contract Services and therefore liable to GST @ 18% under the HSN Code 995461 ?</p> <p>Answer - No</p> <p>2. If the answer to above is in negative, whether the said transaction is Supply of Goods?</p> <p>a) If yes, liable to GST at what rate of tax and under which HSN Code ?</p> <p>Answer -The said transaction is a composite supply where the principal supply majorly is a supply of goods. On the basis of submission made by the applicant it is found that entire transaction is taxable @18%GST under heading 8537 of the GST Tariff Act.</p>																								
Orient Press Limited	Printing Service (Maharashtra AAR)	GST-ARA-89/2018-19/B- 23 Mumbai dated 27.02.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of printing of security documents to its clients (Govt. Authorities , Bank, Educational Board, Pvt. Companies etc.) The following question was raised – <p>1. <i>Whether supply of service of:</i></p> <p>(i) <i>Printing of Pre-examination items like question papers, OMR sheets (Optical Mark Reading), answer booklets;</i></p> <p>(ii) <i>Printing of Post-examination items like marks card, grade card, certificates to the educational boards of up to higher secondary; Would be treated as exempted supply?</i></p> <p>Answer - Yes</p> <p>(iii) <i>What would be the classification and the applicable GST rate, for the supply of Printing of cheque book / railway tickets be treated as exempted supply of service by virtue of Entry No. 66 of the Notification No. 12/2017 - Central Tax (Rate), dated 28th June, 2017 and as amended by Notification No.2/2018 - Central Tax (Rate), dated 25th January, 2018; Entry No. 66 of Notification No. 12/2017 - State Tax (Rate), dated 29th June, 2017; and Entry No. 69 of the Notification No. 9/ 2017 - Integrated Tax (Rate), dated 28th June, 2017 as amended by Notification No. 2/2018- Integrated Tax (Rate), dated 25th January, 2018?</i></p> <p>Answer - In case of railway tickets where the applicant uses their own physical input i.e paper, then the case is covered under Heading 9989 (i) of Notification No. 11/2017 Central Tax (Rate) dated 28th</p>																								

			<p>June 2017 as amended and is taxable at 6% CGST and where the applicant uses physical input i.e supplied by the Railways then the same will be considered as a supply of printing service and will attract the service under Heading 9988(ia) and is taxable at 6% CGST.</p> <p>In case of cheques where the applicant uses their own physical input i.e paper , then the case is covered under heading 9989(i) of notification no. 11/2017-Central Tax(Rate) dated 28th June 2017 as amended and is taxable @6%CGST & where the applicant uses physical input i.e paper supplied by their client, then the same will fall under heading 9988(ii) and is taxable @2.5%CGST</p>
Shah Nanji Nagsi Exports Private Limited	Processing of Popcorn (Maharashtra AAR)	GST-ARA-93/2018-19/B-19 Mumbai dated 16.02.2019	<ul style="list-style-type: none"> The Applicant is in the business of import of maize popcorn variety in bulk & then these are fumigated and cleaned prior to packing. Then this processed popcorn are being packed to sell to restaurant & small popcorn vendors who will directly sell to customers. The following question was raised – <p>1. <i>What will be the correct HSN code and consequently rate of GST applicable on "Ready to cook popcorn premix i.e. Popcorn Maize with edible oil and salt", sold in retail pack size ranging from 30 grams to 350 grams.</i></p> <p>Answer – HSN Code 20081990</p>
Arihant Enterprises	Reselling Ice-creams (Maharashtra AAR)	GST-ARA-126/2018-19/B-29 Mumbai dated 19.03.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of reselling Ice-creams in wholesale as well as retail sale packages. The applicant purchases the said goods from its sole manufacturer, M/s Kamaths Ourtimes Ice-creams Private Limited The applicant sells the Ice -creams to their customers "as it is" without any further processing/ alteration/structural or chemical change. "As it is" means in its exact form as it is acquired from the franchisor. The following questions were raised – <p>1. <i>Whether supply of ice-cream by the applicant from its retail outlets would be treated as supply of "goods" or supply of "service" or a "composite supply" and subject to GST accordingly?</i></p> <p>Answer – The supply of ice-cream by the applicant from its retail outlets would be treated as supply of "goods"</p> <p>2. <i>Whether the supply, not being a composite supply, would be treated as supply of service in terms of entry 6(b) of Schedule 11 attached to the CGST Act, 2017 and leviable to CGST @ 2.5% in terms of Notification No. 11/2017 as amended by Notification No.46/2017-Central Tax (Rate) (serial no. (i) entry no. 7) of the notification?</i></p> <p>Answer – No</p> <p>3. <i>In case the supply is held to be "composite supply", whether the taxability of the same should be treated as supply of service in terms of entry 6(b) of the Schedule II of the CGST act, 2017 or should be taxable on the basis of nature of principal supply in accordance with Section 8 of the Act?</i></p> <p>Answer – Not answered in view of answer to Question No. 1 above.</p> <p>4. <i>In case the supply is held to be a supply of service in terms of entry 6(b) of Schedule II to the CGST Act, 2017, would it be mandatory for the applicant to collect and pay CGST @ 2.5% inspite of the fact that entry 7(i) of Notification No. 11/2017 as amended by Notification No.46/2017-Central Tax is a conditional entry?</i></p> <p>Answer – Not answered in view of answer to Question No. 1 above.</p>
C S Diesel Engineering Private Limited	Manufacturers of Ancillary parts of Marine Engineering (Maharashtra AAR)	GST-ARA-102/2018-19/B-28 Mumbai dated 14.03.2019	<ul style="list-style-type: none"> The applicant is the authorized dealer of Ashok Leyland Marine Engines and Imported Marine Gear Boxes and manufacturer for Marine Generators. The following question was raised – <p>1. <i>Please confirm that Main Propulsion engine for ships falling under HSN code 8408 1093, Marine Gear box falling under heading 8483 and marine generator falling under 8502 1100 and Marine engine for other applications like pumps falling under sub-heading 8408 10</i></p>

			<p>would be considered as parts of Goods for Chapter 89.</p> <p>Answer – The goods as above supplied by the applicant would be considered as parts of goods for chapter 89.</p> <p>2. Further if the all above used in manufacturing of the boat/ ships under headings 8901, 8902, 8904, 8905, 8906 and 8907 shall be charged with 5% even if in their respective chapters, the rates of GST are higher: For example, GST for HSN code 8408 10 93 is 28%, but when supplied to shipyards would be 5% and also implied for chapters 8483 and 8502 1100 above.</p> <p>Answer – The goods as above supplied by the applicant used in the manufacturing of the boat/ ships under headings 8901, 8902, 8904, 8905, 8906 and 8907 shall be charged with 5% even if their GST rates are higher, by application of Notification 1/2017 of the Central Tax (Rate).</p> <p>3. The invoice made by the dealer to the shipyard would be made under the respective product chapter, but with 5% GST. For example marine main propulsion engine would be made with 5% GST under HSN code 8408 1093 and not 28%. And also implied for chapters 8483 and 8502 1100 above with 5% GST.</p> <p>Answer – Yes</p> <p>4. As a generator manufacturer, we buy a marine Engine from our principles (Ashok Leyland). Please conform if we could buy under 5% GST from Ashok Leyland with our letter of undertaking stating that we shall be supplying these Generators to Marine Shipyard also stating in the letter, the with Hull number (which is always unique) for a project and shipyard order copy. We would also submit a covering letter from the shipyard to Ashok Leyland for the same subject matter and yard number (which is always unique). With all this above procedure can Ashok Leyland supply us Marine Generator Diesel Engines with 5% GST under HSN code 8408 1093?</p> <p>Answer – Not answered in view of above discussions.</p> <p>5. When we have to sell an engine to shipyard for main Propulsion, we buy it from Ashok Leyland. under that context could we buy the engines with our letter of undertaking stating that we shall be supplying these engines to marine Shipyard name and Hull number (which is always unique) for that project and with shipyard order copy and also a covering letter from the shipyard for the same subject matter and yard number (which is always unique). With all this can we get the supplies from Ashok Leyland at 5% GST?</p> <p>Answer – Not answered in view of above discussions.</p>
Kansai Nerolac Paints Limited	Manufacture and sale of decorative and industrial paints (Maharashtra AAR)	GST-ARA-84/2018-19/B- 30 Mumbai dated 19.03.2019	<ul style="list-style-type: none"> • Company is engaged in manufacture and sale of decorative and industrial paints to its customers, across the states from its factories and depots located all over India. • To reach out customers on time and to maintain optimum inventory at depot level, there is always flow of goods from factory to depot and from depot to depot. • In some instances company supplies paints at free of cost but after duly discharging GST on taxable value of such goods as per open market value. • Apart from paints, there is also flow of raw materials, capital goods and other goods from one factory to another factory across the country. The following question was raised – <p>1. Whether value of supply of goods by one distinct entity (Factory/depot) as defined under sec 25(4) of the CGST Act 2017 as amended to another distinct entity (Factory/depot) can be determined on the basis of our cost of production. Our cost of production depends mainly on cost of inputs and input services hence the same fluctuates with the price of inputs and input services</p> <p>Answer –Applicant can apply under Rule 28 of the GST Rules, 2017 to determine the value of supply of goods for supply of goods by one distinct entity (factory/depot) as defined u/s25(4) of the CGST Act to another distinct entity having same PAN (factory/depot).</p>

<p>Multiples Alternate Asset Management Private Limited</p>	<p>Investment advisory firm (Maharashtra AAR)</p>	<p>GST-ARA-81/2018-19/B- 25 Mumbai dated 06.03.2019</p>	<ul style="list-style-type: none"> • The Applicant", an India-focused investment advisory firm that currently advises and manages approx. USD 1 billion of Private Equity Funds of a company situated Mumbai in its capacity as Investment Manager. The following question was raised – <p>1. Whether GST is applicable on the Advisory & Management Fees received in Indian Currency from Domestic Contributors located in India for the Services rendered by the applicant? Answer – Yes.</p> <p>2. Whether GST is applicable on the Advisory & Management Fees received in Foreign Currency from Overseas Contributors located outside India for the Services rendered by the applicant? Answer – Yes.</p>
<p>Puranik Construction Pvt. Ltd.</p>	<p>Civil Construction Company (Maharashtra AAR)</p>	<p>GST-ARA-99/2018-19/B- 31 Mumbai dated 20.03.2019</p>	<ul style="list-style-type: none"> • M/s Puranik Construction Pvt. Ltd., engaged in the business of civil construction of residential • The applicant entered into a contract with a Developer, for construction of a residential project at Navi Mumbai. • The said Project is a residential project will be comprising of 135 buildings (having FSI utilization of Sq. Mts. 322505) all having residential flats/units having carpet area of up to or less than 60 Sq. Mts. (i.e. Low Cost House (LCH)) except for 26 buildings (having FSI utilization of Sq. Mts. 63348) wherein commercial shops may be constructed on the ground floor (FSI utilization of 4928.11 Sq. Mts.). They have submitted that out of the total FSI utilization, only 1.5% of the total FSI is being used towards commercial construction (4298 Sq. Mts. / 322505 Sq. Mts.) and balance 98.5% is used towards construction of flats/units having carpet area of 60 Sq. Mts. or less. According to them since more than 50% of FSI is utilized towards construction of LCH the Project would qualify as an 'Affordable Housing Project' (AHP) which has been given Infrastructure status under the Notification F. No. 13/6/2009-INF dated 30.03.2017 issued by Department of Economic Affairs (DEA Notification). The following question was raised – <p>1. <i>The question / issue before Your Honor is eligibility of Notification 01/2018-Central Tax (Rate) dated 25.01.2018 which provides for concessional rate of GST @ 12% on supply of works contract service in respect of Original Works pertaining to construction of a Low Cost House in an AHP</i></p> <p>Answer – The applicant will be eligible for concessional rate @ 12% in the project as per the facts as seen above. The concessional rate will be applicable only for residential units of upto 60 sq mts., in their project and not for commercial units.</p>
<p>Sterlite Technologies Limited</p>	<p>Manufacturing of telecom products (Maharashtra AAR)</p>	<p>GST-ARA-106/2018-19/B-34 Mumbai dated 28.03.2019</p>	<ul style="list-style-type: none"> • Applicant involves in manufacture of telecom products such as optic fiber optic fiber cable, etc • Indian Navy, intends to establish countrywide IP/MPLS based multiprotocol converged network, Naval Communication Network as core infrastructure for supporting strategic and operational needs of Navy. • For setting up of these networks ,Navy selected Bharat Sanchar Nigam Limited ("BSNL") via Tender Procedure, The following question was raised – <p>1. <i>Whether the supply of goods or services for 'setting up of network' would qualify as 'works contract' as defined in Section 2(119) of the CGST Act?</i></p> <p>Answer – The supply of goods or services for 'setting up of network' would qualify as a Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017.</p> <p>2. <i>If supplies contemplated as per the contract with BSNL are not treated as works contract, can these continue to qualify as composite supply? if yes what is the principle supply?</i></p>

			<p>Answer – Not answered in view of answer to Question No. 1 above.</p> <p>3. <i>What is the rate of tax applicable to the supplies made under the contract?</i></p> <p>Answer – GST Rate- 18%</p>
Tata Motors Limited	Manufacturing & Sale of Motor Vehicles (Maharashtra AAR)	GST-ARA-104/2018-19/B-32 Mumbai dated 22.03.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of manufacture & sale of Motor Vehicle , Chassis & part thereof. The passenger is launching new passenger vehicle. The following questions were raised – <p>1. <i>Whether Tata Harrier vehicle, which has following specifications, is classifiable under Tariff Item 8703 32 91 or 8703 32 99 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)?</i></p> <p>Answer – will be classified under Tariff Item 87033291 of the 1st Schedule to the Customs Tariff Act 1975</p> <p>2. <i>For a motor vehicle to get covered under above entry as SUV/ UV, whether it has to satisfy only the conditions mentioned in main clause i.e. engine capacity above 1500 cc and popularly known as SUV/ UV or in addition, it has to also satisfy the conditions mentioned in Explanation" i.e. length exceeding 4000 mm and ground clearance of 170 mm and above? In short, if the vehicle satisfies only the conditions mentioned in main clause but is not satisfying any one or all of the conditions mentioned in Explanation', whether it would still be covered under Entry at Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended?</i></p> <p>Answer – To be covered under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (rate) dated 28.06.2017 , the vehicle must satisfy the conditions mentioned in main clause as well as the conditions mentioned in the explanation.</p> <p>3.<i>For the purpose of Cess @ 22% under Sr. No: 52B of Notification No. 1/2017 Compensation Cess (Rate) dated 28.06.2017 as amended, whether the ground clearance of the vehicle is to be considered in laden condition or in unladen condition?</i></p> <p>Answer – The ground clearance given in the notification must be arrived in unladen condition.</p> <p>4.<i>Whether Tata Harrier vehicle whose ground clearance in unladen condition is 205 mm and in laden condition is 160 mm, would fall under Sr. No. 52B of the Notification No. 1/2017-Compensation Cess. (Rate) dated 28.06.2017 as amended?</i></p> <p>Answer – Yes</p> <p>5. <i>Whether GST Compensation Cess @ 22% under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017 as amended, will be applicable to Tata Harrier vehicle?</i></p> <p>Answer – Yes</p> <p>6.<i>Vehicle whose ground clearance in unladen condition is more than 170 mm but below 170mm in laden condition, whether will get covered under Sr. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017?</i></p> <p>Answer – To be covered under Sr. No. 52B OF Notification No. 1/2017- Compensation Cess (Rate) dated 28.06.2017 the ground clearance should be 170 mm or above in unladen condition.</p>
Nagpur Integrated Township Private Limited	Construction Company (Maharashtra AAR)	GST-ARA-107/2018-19/B-35 Mumbai dated 02.04.2019	<ul style="list-style-type: none"> The company is engaged into development of land and construction of flats to be given out on lease as per the Agreement of Lease entered by them with the customers. The following questions were raised – <p>1. <i>Whether the transaction between Applicant and lessee is outside the purview of GST as a transaction in immovable property?</i></p> <p>Answer – The transaction between Applicant and lessee is taxable under GST. It is not a transaction in immovable property.</p> <p>2. <i>If not, what is the appropriate classification and rate of GST?</i></p> <p>Answer – The transaction is a composite supply of works contract as defined in clause 119 of Section 2 of the CGST Act, 2017 and classifiable under C H 9954 (ii) and will attract tax @ 18%.</p>
Jalaram Feeds	Manufacturing of only	GST-ARA-110/2018-19/B-	<ul style="list-style-type: none"> The applicant is engaged in manufacturing of Compound Animal Feed (HSN Code : 2309) which is exempted under

	Compound Animal Feed (Maharashtra AAR)	38 Mumbai dated 10.04.2019	<p>the CGST Act, 2017.</p> <ul style="list-style-type: none"> The applicant says that since it is into supply of only exempted goods, it is covered under section 23 of CGST Act, 2017 and is not liable to take registration under any of the provisions of the Act. As per the provisions of Act, 2017, a firm is liable to take registration as it is liable to pay GST under Reverse Charge. The firm is of the opinion that Sec 24 overrules sec 22 (Person Liable to register beyond a specific aggregate turnover) and not sec 23, Since section 23 is a specified section and independent and is not overruled by section 24, it is covered under sec 23 and not required to take registration under the CGST Act, 2017. The following question was raised – <p>1. <i>Whether the firm is liable to take registration under sec 24 or is exempted from registration under sec 23?</i></p> <p>Answer – Applicant is liable to take registration in view of provisions of section 24 of the GST Act, 2017.</p>
City And Industrial Development Corporation Of Maharashtra Limited	Supply of Service (Maharashtra AAR)	GST-ARA-114/2018-19/B-42 Mumbai dated 24.04.2019	<ul style="list-style-type: none"> The applicant has proposed to engage in the activities of lease, tenancy, easement, granting license to occupy land to a local authority. The following question was raised – <p>1. <i>Whether the supply of services by the applicant, of 'transfer by way of lease' of vacant plots of 'Maharashtra State Government owned lands' or 'privately owned lands acquired under the Land Acquisition Act, 1894 by the Maharashtra State Government' vested in CIDCO, to: (a) Navi Mumbai Municipal Corporation('NMMC'), for intended development thereof and construction of buildings by the latter on each of those plots, demarcated for separate use as: (i) Indoor Recreation Centre, (ii) Slaughter House; (b) Panvel Municipal Corporation('PMC'), for intended development thereof and construction of buildings by the latter on each of those plots, demarcated for separate use as: (i) PMC Ward Office(s), (ii) PMC Commissioner's residence, and (iii) PMC Mayor's residence; can be said to covered within the scope of entry at Sr. 3 or any other entry of the Notification 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification 32/2017-Central Tax (Rate) dated 13.10.2017, 47/2017-Central Tax (Rate) dated 14.11.2017 further amended by Notification 02/2018-Central Tax (Rate) dated 25.01.2018 read with parallel notifications issued under the MGST Act, 2017? Please note that each allotment of plot for specific use would be a different transaction of supply of service by CIDCO.</i></p> <p>Answer – The services [Indoor Recreation Centre, Slaughter House; PMC Ward Office] would be exempted from GST according to entry at Sr. 3 or any other entry of the Notification 12/2017-Central Tax (Rate) dated 28.06.2017. The services [PMC Commissioner's residence and PMC Mayor's residence] will be taxable @18% GST under chapter heading 9972, Sr. 16, clause (iii)</p>
Aarel Import Export Private Limited	Importer and exporter trader of products such as Black Matpe, Toor Whole, Coke, Agarbatti(Maharashtra AAR)	GST-ARA-114/2018-19/B-42 Mumbai dated 24.04.2019	<ul style="list-style-type: none"> Applicant is importer and exporter trader of products such as Black Matpe, Toor Whole, Coke, Agarbatti, etc. Goods would be stored at a rented Customs warehouse (Ex-bond) at Paradip Port; do not have any separate establishment or place of operation in the State of Odisha; endeavours to clear the goods from that warehouse in the name of our Mumbai office using Maharashtra GSTIN where the importation will be completed on payment of custom duties, if any, and IGST in the name of Mumbai office and wish to sell the goods directly from Paradip Port warehouse (EX-BOND) to the customers in Odisha and accordingly charge IGST to our customers by raising bill from Mumbai office itself and not Odisha. The following questions were raised – <p>1. <i>Whether the procedure to raise the invoice from Mumbai Office for</i></p>

			<p>imports received at Paradip Port, Odisha where we do not have any separate GST Registration and Charge IGST from Mumbai to our Customers is correct? or do we have to take separate Registration in the State of Odisha for the below mentioned transactions?</p> <p>Answer – Yes</p> <p>For this transaction, no separate registration in the State of Odisha is required.</p> <p>2. If we do not need separate registration in Odisha, can we do the transaction on Mumbai Office GSTIN, then in case of issuance of e-way bill is it correct to Mention the GSTIN of Mumbai and Dispatch place as Paradip Port?</p> <p>Answer – Yes</p>
Gandhar Oil Refinery (India) Limited	Trading of Non coking Coal and Manufacturing activity of Petroleum Products (Maharashtra AAR)	GST-ARA-112 /2018-19/B- 40 Mumbai dated 15.04.2019	<ul style="list-style-type: none"> The applicant is engaged in trading activity of Non coking Coal and Manufacturing activity of Petroleum Products. The company is importing said coal at various ports and also purchasing from dealers within India from various states. The said coal is imported at various ports situated in various states registered with GST department. The following questions were raised – <p>1. Whether the applicant requires registration in each State separately?</p> <p>Answer – Applicant is not required to have separate registration in each state.</p> <p>2. Whether the applicant can adopt the procedure to raise the invoice from Mumbai Head Office/Registered Office at Mumbai for imports received at various ports, located in various states in India and charge IGST from Mumbai to our customers in various state is proper or not.</p> <p>Answer – Not answered since the question is not covered under Section 97 of the CGST Act, 2017.</p> <p>3. If we cancel separate registration in various state can we do the transaction on Mumbai Head Office GSTN, then in case of issuance of E - way bill is it correct to mention the GSTN of Mumbai and mention dispatch place of port of respective state/port</p> <p>Answer – Not answered since the question is not covered under section 97 of the CGST Act, 2017.</p>
Daewoo-TPL JV	Engineering and construction (Maharashtra AAR)	GST-ARA-113/2018-19/B-41 Mumbai dated 24.04.2019	<ul style="list-style-type: none"> Daewoo-TPL JV, is a joint venture between M/s. Daewoo Engineering and Construction Company Limited and M/s. Tata Projects Limited. The said joint venture formed with the sole objective to bid and secure the contract for design, engineering and construction of Long Bridge -Mumbai Trans Harbour Link project ('MTHL Project') Such Works Contract services is taxable @ 12% outward GST. Execution of construction of large projects such as MTHL Project entails procurement of various inputs, input services & capital goods viz. cement, concrete, steel & steel structures, bridge accessories, formworks, plant & equipments, labour, etc. All such goods & services attract GST at varied rates, depending on the nature of such procurement. The following questions were raised – <p>1. The Applicant though eligible to claim for refund of inverted duty structure under Section 54(3) of the CGST Act, wishes to understand in-principle applicability of Notification No 21 and 26 in as much whether the same allow for refund of ITC availed on input services (and remaining unutilized) in whole or part thereof</p> <p>Answer – Both the Notifications [Notification No 21/2018 - Central Tax (Rate) dated April 18, 2018 and Notification No. 26/2018-Central Tax dated 13.06.2018] do apply to the Applicant which prescribe the method for carrying out provisions of Section 54 (3) of the CGST Act, 2017 and therefore do not allow refund of ITC availed on input services (and remaining unutilized) in whole or part thereof, in view of the definition of 'input' contained in the sub-section (59) of Section 2 of the GST Act, 2017 and the definition of 'Net ITC'</p>

			<p>contained in the Notification No. 26/2018-Central Tax dated 13.06.2018.</p> <p>2. Where the answer to above is negative, the Applicant wishes to understand how does the Notification 21 and 26 apply in a scenario where factually following financials may exist:</p> <p>A. Revenue streams Works contract services liable to 12% GST INR 1,000 Output GST @ 12% INR 120 Total Revenues incl. GST INR 1,120</p> <p>B. Input Tax Credit Data Particulars Amount (INR) ITC on inputs 65 ITC on input services 90 Sub-total 155 Less: Total tax on outward supplies 120 Net balance remaining unutilized 35</p> <p>Answer – This question pertains to formulae for calculation of refund and hence does not fall within the purview of Section 97 of the CGST Act and is therefore not answered.</p>
Sanofi India Limited	Sale of pharmaceutical goods and services (Maharashtra AAR)	GST-ARA-115/2018-19/B-43 Mumbai dated 24.04.2019	<ul style="list-style-type: none"> The applicant is engaged in business of sale of pharmaceutical goods and services through group entities Sanofi also gets its products manufactured through Third party manufacturers who manufacture goods on Contract manufacturing basis. Sanofi incurs various marketing and distribution expenses with a view to promote their brand/ products and enhance its sales. Under various schemes, Sanofi distributes different products among its trade channels as promotional items or brand reminders. Further, Sanofi also offers various promotional schemes such as Shubh Labh trade loyalty program, etc. The following question was raised – <p>1. Whether input tax credit is available of the GST paid on expenses incurred towards promotional schemes of Shubh Labh Loyalty Program? Answer –No</p> <p>2. Whether input tax credit is available of the GST paid on expenses incurred towards promotional schemes goods given as brand reminders? Answer –No</p>
Bandai Namco India Private Limited	Video Game Development Company (Maharashtra AAR)	GST-ARA-109/2018-19/B-37 Mumbai dated 08.04.2019	<ul style="list-style-type: none"> Bandai Namco Entertainment Inc. ('BNEI') is a Japanese video game development company and publisher. BNEI also releases videos, music, and other entertainment products related to its intellectual properties (IP). It has the operation in all major countries around the globe including India. The Indian arm is operated by means of a private company set-up under the Companies Act, 1956 bearing the name of Bandai Namco India Private Limited The applicant stationed various gaming equipment and machines for different age groups, consisting of kids, teenagers and adults. The equipment and machines are either coin operated or card operated in its faculty. The following question was raised – <p>1. Applicable GST Rate on operating gaming zone in one of leading malls in Mumbai? Answer – GST rate on operating gaming zone in one of leading malls in Mumbai is @ 28 % w.e.f. 25.1.2018.</p>
Bilcare Limited	Healthcare Services (Maharashtra AAR)	GST-ARA-117/2018-19/B-45 Mumbai dated 26.04.2019	<ul style="list-style-type: none"> M/s. Bilcare Ltd. is engaged in Healthcare Services , Discover of New Drugs for effective solution of various disease , Pharmaceutical Packaging Solutions comprising of a wide range of specialty Polymer Films and Aluminum Foils mainly used for packaging of solid dosage

			<p>pharmaceutical products, etc. The following questions were raised</p> <p>1. <i>Determining whether the various services provided to foreign clients i.e. situated outside India and for which the place of supply is in the taxable territory shall be liable to Integrated Tax (herein referred to as "IGST") or Central Goods and Service Tax (herein referred to as "CGST") and State Goods and Service Tax (herein referred to as "SGST") for the purpose of levy of Goods and Services Tax (GST) under the GST Law.</i></p> <p>Answer –The above mentioned services are liable to CGST and SGST as the location of 'supplier of service' and the 'place of supply' is in the same State, in terms of Section 13(3)(a) of IGST Act, 2017.</p> <p>2. <i>In case it is ruled that IGST is payable, the procedure to be followed for payment of IGST as the GST portal does not permit the payment of IGST where the place of supply is indicated as state of Maharashtra.</i></p> <p>Answer – Not answered since IGST is not applicable.</p>
The Leprosy Mission Trust Of India	Health Education Service Provider (Maharashtra AAR)	GST-ARA-116/2018-19/B-44 Mumbai dated 26.04.2019	<ul style="list-style-type: none"> The applicant works closely with Govt. of India, State Govt., W.H.O & other national & international organizations in the area of Health Education, Sustainable Livelihoods, Community Development, Advocacy & Research . The following questions were raised <p>1. <i>Whether services provided under vocational training courses recognized by National Council for Vocational Training (NCVT) or Jan Shikshan Sansthan (JSS) is exempt either under Entry No 64 of exemption list of Goods and Service Tax Act 2017 or under Educational Institution defined under Notification 22/Central Tax (Rate)?</i></p> <p>Answer – The mentioned service is not exempted.</p> <p>2. <i>Whether services provided under vocational training courses provided by the applicant are exempt under Entry No 66 of the Notification 22/2017 - Central Tax (Rate)?</i></p> <p>Answer – Only the vocational training courses pertaining to Diesel Mechanic , Computer Operator & programming assistance , welder , Motor Mechanic are exempted under the S. No. 66(a) of Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended</p>
Rotary Club Of Mumbai Queens Necklace	(Maharashtra AAR)	GST-ARA-118/2018-19/B-46 Mumbai dated 30.04.2019	<ul style="list-style-type: none"> The applicant is an unincorporated association of individuals which is affiliated to Rotary International. The following questions were raised <p>1. <i>The questions/ issues before Your Honor for determination is whether the amount collected as membership subscription and admission fees from members is liable to GST as supply of services?</i></p> <p>Answer – Yes, liable to GST</p> <p>2. <i>If the above receipts are liable to GST , can the Club claim Input tax credit of the tax paid on Banquet and catering services for holding members meetings and various events?</i></p> <p>Answer – The club cannot claim Input tax credit of the tax paid on Banquet and catering services for holding members meetings and various event</p>
Kasturba Health Society	Medical Education Provider (Maharashtra AAR)	GST-ARA-120/2018-19/B-51 Mumbai dated 04.05.2019	<ul style="list-style-type: none"> The applicant is registered under Societies Act 1860 & also Bombay Public Trust Act , 1950 for providing medical education till post graduation which is a joint venture having funding from Central Govt. @50% , State Govt. @ 25%,and remaining 25%comes mainly by way of student fees and recoupment charges from patient. . The following questions were raised <p>1. <i>Whether the applicant, a Charitable Society having the main object and factually engaged in imparting Medical Education, satisfying all the criteria of "Educational Institution", can be said to be engaged in the business so as to cast an obligation upon it to comply with the provisions of Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017 in totality.</i></p> <p>Answer – In view of the discussion made above it is MGIMS which appears to be engaged in imparting medical education & not the applicant. The applicant has entered into a joint project with the</p>

			<p>state & central govt. to form MGIMS which is an entity different from that of the applicant. Hence the applicant cannot be said to be satisfying all the criteria of an "Educational Institution"</p> <p>2. Whether the applicant, a Charitable Society having the main object and factually engaged in imparting medical education, satisfying all the criteria of "Educational Institution" is liable for registration under the provisions of section 22 of the Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017 or it can remain outside the purview of registration in view of the provisions of section 23 of the said act as there is no Taxable supply.</p> <p>Answer – As applicant has been found to be not an educational institution, the applicant falls within the scope of Sections 22 or 24 of GST Act, 2017, they are liable to obtain registration if they provide taxable services and their turnover exceeds the threshold limit prescribed for registration.</p> <p>3. In a situation if above questions are answered against the contention of the applicant institution then following further questions are being raised for the kind consideration by the Honourable Bench.</p> <p>a) Whether the fees and other charges received from students and recoupment charges received from patients (who is an essential clinical material for education laboratory) would constitute as "outward supply" as defined in section 2 (83) of The Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017 and if yes then whether it will fall in classification entry at Sr. No 66 or the portion of nominal amount received from patients (who is an essential clinical material for education laboratory) at Sr. 74 in terms of Notification 12/2017 Central Tax-dt. 28/6/2017.</p> <p>b) Whether the cost of Medicines and Consumables recovered from OPD patients along with nominal charges collected for Diagnosing by the pathological investigations, other investigation such as CT-Scan, MRI, Colour Doppler, Angiography, Gastroscopy, Sonography during the course of diagnosis and treatment of disease would fall within the meaning of "composite supply" qualifying for exemption under the category of "educational and/or health care services."</p> <p>c) Whether the nominal charges received from patients (who is an essential clinical materials for education laboratory) towards an "Unparallel Health Insurance Scheme" to retain their flow at one end for the purpose of imparting medical education as a result to provide them the benefit of concessional rates for investigations and treatment at other end would fall within the meaning of "supply" eligible for exemption under the category of "educational and/or health care services."</p> <p>d) Whether the nominal amount received for making space available for essential facilities needed by the students and staffs such as Banking, Parking, and Refreshment which are support activities for attainment of main activities and further amount received on account of disposal of wastage would fall within the meaning of "supply" qualifying for exemption under the category of "educational and/or health care services."</p> <p>Answer – Question 3 has been rejected.</p>
Cliantha Research Limited	Clinical Research Organization (Maharashtra AAR)	GST-ARA-119/2018-19/B-50 Mumbai dated 04.05.2019	<ul style="list-style-type: none"> The Applicant is a Clinical Research Organization & provides support services by way of Technical Testing, Analysis on Drug/Investigational Product provided by sponsors located outside India & submit final report to such foreign sponsors. The following questions were raised <p>1. Whether the "Clinical Research" services proposed to be provided by them to entities located outside India is liable to Central Goods and Services Tax and State Goods and Services Tax or Integrated Goods and Services Tax or is it eligible to be treated as an export of service under Section 2(6) of the Integrated Goods and Services Tax Act, 2017?</p> <p>Answer – The clinical research services proposed by them to entities located outside India is not eligible to be treated as an export of service u/s2(6) of the IGST Act 2017. The services are liable to CGST</p>

			& SGST as the location of supplier of service and the place of supply is in the same state, in terms of section 13(3)(a) of the IGST Act 2017
Golden Tobacco Limited	Cigarettes Business (Maharashtra AAR)	GST-ARA-121/2018-19/B-52 Mumbai dated 04.05.2019	<ul style="list-style-type: none"> The applicant is a seller of Cigarettes & intends to offer extra quantity of Cigarettes in addition to the normal quantity against same consideration as a taxable supply to its distributors from their depots. For branding promotion, the applicant proposes to distribute some of their products through distributors The applicant decides the price range between Rs. 50 to Rs. 200(Quantity of Cigarettes-10) However, the applicant decides to supply 110 packets Cigarettes at a same price of 100 packets. The applicant would be paying GST and Compensation Cess on Rs. 5000 at a applicable rate. The following questions were raised <p>1. In the above transaction, whether the extra packs of Cigarettes would again be leviable to GST? Answer – No</p> <p>2. If yes, the taxable value which can be attributed to such extra packs of Cigarettes for levy of GST? Answer – Not answered in view of answer to Question 1 above</p> <p>3. Whether extra packs of Cigarettes would be considered as exempt supplies or free samples and hence attract the provisions of Section 17 (2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 or clause (h) of Section 17 (5) of the CGST Act, 2017? Answer – The extra packets will not be considered as exempt supplies or free samples and hence the provision of 17(2), Rule 42 of CGST Rules, clause(h) of section 17(5) of the CGST Act 2017 will not be applicable.</p>
S.B. Reshellers Pvt. Ltd.	Manufacturer of Sugar Mills Roller (Maharashtra AAR)	GST-ARA-97/2018-19/B- 24 Mumbai dated 02.03.2019	<ul style="list-style-type: none"> The Applicant is engaged in manufacturing of Sugar Mills Roller and sold these machines by charging 18% GST. After using for a certain period, the machine are getting worned out. So the customer send that machine to the applicant for making the machine in reusable form. Bare Shaft/Beams is one of the main part of Sugar Mills Roller. Sometimes the customer send only Bare Shaft/Beams after taking out from Sugar Mill Roller to the applicant for making in reusable form Sometimes the customer purchased only Bare Shaft/Beams & supplied these to the applicant for making Sugar Mills Roller in reusable form. The following question was raised – <p><i>The activity of converting the bare shaft/beams supplied by the customer into ready to use sugar mill roller (by using one's own raw material) will be treatable as supply of goods or will be treatable as supply of service?</i> Answer –It will be treated as supply of goods</p> <p><i>Whether the cost of shaft/beam supplied by the customer is includible in the value of the said supply for the purpose of payment of GST?</i> Answer –Answered is in Affirmative</p>
TCPL Packaging Limited	Manufacturer of Packaging Material (Maharashtra AAR)	GST-ARA-105/2018-19/B-33 Mumbai dated 22.03.2019	<ul style="list-style-type: none"> The applicant is engaged in manufacture of packaging materials using Board, Films, etc. As a converter of paper board, the applicant manufactures folding cartons, printed blanks, outers, litho lamination, plastic cartons, blister packs and shelf ready packaging. All products manufactured by the applicant are customized according to the requirement of Customer. The following question was raised – <p>1. Whether the packaging materials viz. cut to size blanks manufactured by TCPL with corrugation and having requisite creases at designated places, supplied to the Customers in flat form with folding, can be categorized under Tariff Item Code no 4819 and subject</p>

			<p>to GST @ 12%?</p> <p>Answer – Answered is in Affirmative</p> <p>2. <i>What would be the appropriate categorization and GST Rate of printed materials which are in flat form, e.g. hanging cards, without creases having corrugation and supplied to customer in flat form?</i></p> <p>Answer – Categorization – CH 4823. GST Rate – 18%</p>
M/s. Specsmakers Opticians Private Limited	Retail Business (TAMILNADU AAR)	TN/27/AAR/2019 DATED 24.06.2019	<ul style="list-style-type: none"> The business is engaged in trading of lenses, frames, sun glass, contact lenses as well as reading glasses, complete spectacles. The following question was raised – <p>1. <i>The value to be adopted in respect of transfer to branches located outside the state.</i></p> <p>Answer – The value of supply of above mentioned goods to distinct persons being branches outside the state Tamil Nadu shall be the open market value. Where the goods are intended for further supply as such by recipient, the applicant has the option to adopt an amount equivalent to 90% of price charged for the supply of goods of like kind & quality by the recipient to its customer not being a related person as the value of such supplies to the distinct recipient.</p>
M/s. Sanghvi Movers Limited	Service Provider (TAMILNADU AAR)	TN/26/AAR/2019 DATED 21.06.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of providing medium sized heavy duty cranes on rental/lease/hire basis to customers without transferring the right to use the cranes. The applicant has a branch office at Maharashtra also. The following question was raised – <p>1. <i>Whether on facts and circumstances of the case, since Integrated Goods and Services Tax (“IGST”) is payable on inter-state movement of cranes by the supplier (M/s. Sanghvi Movers Limited- Maharashtra), whether the recipient office of SML (i.e. SML Tamil Nadu) duly registered under GST receiving such cranes for further supply on hire charges would be eligible to avail input tax credit (ITC) of IGST charged?</i></p> <p>Answer – The service received by the applicant (i.e. SML Tamil Nadu) is not eligible for full ITC but only to the extent specified in the restrictions as per second proviso section 16(2) of CGST Act & rule 37 of CGST Rules read with section 20(iv) of IGST Act, subject to fulfillment of all other conditions u/s 16 of CGST Act.</p>
Tvh Lumbini Square Owners Association	Residential Welfare Association (TAMILNADU AAR)	25/AAR/2019 Dated 21 .06.2019	<ul style="list-style-type: none"> The applicant is engaged in residential welfare association maintenance service,. The following question was raised <p>1. <i>If the monthly maintenance charges payable by a member of the association exceeds Rs.7500 per month, in the context of exemption as per S.No. 77 of Notification 12/2017 – Central tax (Rate) dated 28.06.2017 as amended by Notification 2/2018 – Central Tax (Rate) dated 25.01.2018, the applicant is liable to pay GST only on the amount in excess of Rs.7500 or on the entire amount?</i></p> <p>Answer – If a service by the residential welfare association to its members by way of reimbursement of charges or share of contribution for sourcing of goods & services from a third person for the common use of its members is such that it is above Rs.7500/p.m effective from 25.01.2018, it is not eligible SL No. 77© of Notification No. 12/2017-C.T (Rate) dated 28.06.2017 as amended for CGST & Sl. No. 77© of Notification No. II(2)/CTR/532(d-15)/2017 vide G.O (Ms) No. 73 dated 29.06.2017 as amended for SGST. CGST & SGST at appropriate rates are to be paid by the members on the full amount of reimbursement of charge or share of contribution.</p>
K.Suresh	Manufacturer of Wet Wipes (TAMILNADU AAR)	24/AAR/2019 Dated 21 .06.2019	<ul style="list-style-type: none"> The applicant intends to manufacture Wet Wipes with 2% chlorhexidine Gluconate and supply that to dealers. The following question was raised <p>1. Classification of wet wipes and rate of tax on the sales (supply) of the same</p> <p>Answer – Classifiable under 33079090 of the first schedule to the Customs Tariff Act GST Rate up to 14.11.2017- 28%</p>

			GST Rate from 15.11.2017-18%
Rossi Gear motors India Private Limited	Manufacturer of Gearboxes and Gear reducer (TAMILNADU AAR)	23/AAR/2019 Dated 22 .05.2019	<ul style="list-style-type: none"> The Applicant is engaged in manufacturing of Gearboxes and Gear reducer . These Gearboxes are assembled by the Applicant with the Electrical Motor Machine. The following questions were raised <p>1. Whether the Geared Motor is to be classified under 8501 or under 8483 for the purpose of payment of GST? Answer – Will be classified under CTH 8501</p> <p>2. Whether the Geared Motor can be considered as Gears and Gearings? Answer – This question is not within ambit of section 97(2) of this Act</p> <p>3. Whether the rate of CGST/SGST as per Notification No. 1/2017- CT (Rate) and GO (Ms) No: 62 date 29.06.2017 is. (a)9% as per Schedule – III (Sl.No:372); (OR) (b)9% as per Schedule – III (Sl.No:369A); (OR) ©14% as per Schedule – IV (Sl.No:135). Answer – GST Rate – 18%</p>
RAJENDRAB ABU AMBIKA (Proprietrix of M/s. Sri Dhanalaksh mi Welding Works)	Manufacturer and Job Work of Milk Dairy Machinery (TAMILNADU AAR)	22/AAR/2019 Dated 22 .05.2019	<ul style="list-style-type: none"> The Applicant is engaged in manufacturing, Erection , Commissioning, Reconditioning and Repairing and Maintenance of Milk Dairy Machinery products and its equipment's at various District Co-operative Milk. The following questions were raised <p>1. The Applicant dairy machinery works (photograph attached) is liable to tax at 12% (HSN code-8434) or 18% (HSN Code-8413) kindly clarify. Answer – The applicable classification of the dairy Machinery cannot be pronounced as no details of such supply were produced.</p> <p>2. In dairy machinery works, the Applicant have taken Milk processing, milk chilling Refrigeration system, Milk handling equipment's and Milk Packing equipment's and milk allied product making machinery. For such supply and erection of dairy machinery it involves service charges also. If so what will be the rate of tax on the service charges component Answer – The activity of Supply undertaken by the applicant in respect of the awarded work order by the Tiruchirapalli District Coopertive Milk Producers Union Ltd, to carry out the work towards the 7X7 Frick Ammonia Compressor, IBT Tank Liquid Separator in pipeline repairing and replacement work at Karur and work order by the Kancheperam Thiruva-llur District Co-operative Milk Producers Union Ltd, Thiruvallur for providing new header to Inter connecting ice bank tank with Accel Compressor and gladded insulation with aluminium sheet is classifiable under SAC 998717 and the applicable rate of tax is 9%-CGST under Sl.No. 25(ii) of Notification No. 1112017-C.T.(Rate) dated 28.06.2017 as amended and at 9% -SGST under Sl.No. 25(ii) of Notification No.II(2)/CTR/532(d-14)12017 vide G.O. (Ms) No. 72 dated 29.06.2077 as amended</p> <p>3. Whether our nature of activities falls under works contract or not. If so, what will be the rate of tax and its HSN code? Also inform the details of entries to be made in monthly return GSTR-1. Answer – The Activity of the applicant are not Works Contract' as defined in Section 2(I).9) of the CGST/TNGST Act 2017</p> <p>4.Clarify the applicability of E-Way Bill procedures for our business activities i.e. The goods sent on delivery challan for erection purpose and subsequently bill made similarly we took back the machinery to our place for repair and maintenance kindly specify the transport documents to be used in our business activities mentioned above. Answer – The applicability of E-way bill procedure and GSTR- 1 are</p>

			not answered as the same are not the details to be filled in in the purview of Advance Ruling as per Section 97 of the CGST/TNGST Act 2017
VENKATASAMY JAGANNATHAN	Service Provider (TAMILNADU AAR)	19/AAR/2019 Dated 21 .05.2019	<ul style="list-style-type: none"> The applicant is employed in Star Health and Allied Insurance Company Limited as Chairman and Managing Director and also a Stake holder in the said company. The applicant has entered into a Profit Sharing Agreement on 25th day of May 2017 in which the applicant will get a profit for a strategic sale of equity shares over and above a specified sale price per equity share by a set of shareholders of SHA . The following questions were raised – <p>1. Will the profit sharing agreement between the applicant as an employee and the shareholders, attract GST in his hands?</p> <p>Answer – The Profit Sharing Agreement between the applicant and various shareholders of SHA is an actionable claim and is as neither a supply of goods nor a supply of services covered under Schedule III to CGST Act and SGST Act and hence is not taxable to CGST or SGST</p>
Alekton Engineering Industries Pvt. Ltd.	Manufacturer & Supplier of Triple Screws Pumps (TAMILNADU AAR)	18/AAR/2019 Dated 16 .04.2019	<ul style="list-style-type: none"> The applicant is engaged in manufacturing & Supplier of Triple Screws Pumps. The following questions were raised – <p>1. Whether the Triple Screw Pumps & Parts thereof falling under Chapter Heading 8413 can be treated as Parts of HSN 8901,8902,8904,8905,8906,8907 attracting</p> <p>(a) IGST 5% as per Schedule I (SI. No. 252) of Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 or not?</p> <p>Answer – Forced Lubrication Pumps , Emergency Lube Oil Pumps , DG LUB Oil transfer pumps , triple screw pumps manufactured by the applicant supplied to Indian Navy for commissioning in its vessels and warships are parts of all types of vessels and warships</p> <p>(b) CGST 2.5% + SGST 2.5% as per Schedule I (SI.No. 252) of Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 or not?</p> <p>Answer – They are covered under the Notification no. 1/2017-C.T(Rate) dated 28.06.2017 as amended 2.5% CGST & 2.5% SGST & 5% IGST as per Notification no. 1/2017-IGST(Rate) dated 28.06.2017</p>
Tata Projects Limited	Engineering Company (TAMILNADU AAR)	17/AAR/2019 Dated 16 .04.2019	<ul style="list-style-type: none"> The company is engaged in the process , design, detailed engineering , procurement , shop fabrication & inspection , supply, storage, site fabrication, erection , inspection & commissioning of Fluid Servicing System of Semi Cryo Integrated Engine Test Facility The applicant has entered into contract with ISRO for providing establishment of Fluid Servicing System of Semi Cryo Integrated Engine Test Facility. The following questions were raised – <p>1. Whether supply of Engineering, Procurement and Construction(EPC) contract for establishment of Fluids Servicing System where in both goods and services are supplied can be construed to be a composite supply in terms of Section 2(30) of CGST Act, 2017.</p> <p>Answer – Supply of Engineering, Procurement and Construction(EPC) contract for establishment of Fluids Servicing System between the applicant & IPRC is a composite supply u/s 2(30) of CGST & TNGST Act 2017</p> <p>2. If Yes, Whether the Principal Supply in such case can be said to be “Establishment of Fluids Servicing System(FSS)” can be taxable at 5% GST vide notification No.45/2017- Central Tax(Rate) dated 14/11/2017.</p> <p>Answer – This supply is a works contract in terms of Section 2(119) of CGST & TNGST Act 2017 & notification no. 45/2017- Central Tax (Rate) dated 14/11/2017 & corresponding SGST Notification vide G.O (Ms) No. 161 dated 14.11.2017 is not applicable</p> <p>3. If Principal Supply taxable at 5%, whether the entire transaction in the contract is taxed as per the rate applicable to Principal Supply?</p> <p>Answer – The complete transaction is taxable at the rate applicable</p>

			to this supply of works contract
Daimler Financial Services India Private	NBFC (TAMILNADU AAR)	16 /AAR/2019 Dated 15 .04.2019	<ul style="list-style-type: none"> Daimler Financial Services India Private is engaged in activities of Leasing & Financing including operating lease of passenger vehicle, financing of commercial and passenger vehicle to end customers. Daimler Financial Services India Private also does dealership related financial services like inventory financing for Daimler Franchised Dealer. <p>1. <i>Whether the interest subvention income received by Daimler Financial Services India Private Limited(DFSI) from Mercedes-Benz India Private Limited(MB India) to reduce the effective interest rate to the final customer is chargeable to GST?</i> Answer – The Interest subvention income received by Daimler Financial Services from Mercedes-Benz India Pvt. Ltd. to reduce the effective interest rate to the final customer is chargeable to GST as a supply under SAC Code 999792 as other miscellaneous services & GST Rate 18%.</p>
V. V. Enterprises Private Limited	Manufacturer of Coffee Maker (TAMILNADU AAR)	15 /AAR/2019 Dated 15 .04.2019	<ul style="list-style-type: none"> The applicant is Manufacturer of Coffee Maker. The following question was raised – <p>1. Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker fall under Chapter Heading No. 8419 of the GST tariff and therefore SI. No. 320 of Schedule III to notification No. 41/17 CTR dated 14.11.2017 and corresponding SI.NO. 320 of Schedule III to G.O. M.s.No. 157 dated 14.11.2017 to be taxed at the rate of 18%. Answer –Gemini Modern Auto Coffee Filter & Gemini Modern Traditional Coffee Filter – classified under 84198190</p> <p>2. Whether in the facts and circumstances of the case and in view of the fact that Automatic Electric Filter Coffee Maker is a machinery not meant for domestic use and will therefore be classified under Chapter Heading No. 8419 of GST tariff to be charged at the rate of 18%. Answer – GST Rate on Gemini Modern Auto Coffee Filter & Gemini Modern Traditional Coffee Filter – 18%</p> <p>3. Whether in the facts and circumstances of the case and in view of the fact that, Manual/Traditional Filter Coffee Maker, being not meant for domestic use and falling under Chapter Heading No. 8419 of GST tariff SI. No. 320 of Schedule III to Notification No. 41/17 CTR dated 14.11.2017 and corresponding SI. NO. 320 of Schedule III to G.O. Ms. No. 157 of 2017 is to be taxed at the rate of 18%. Answer – GST Rate on Gemini Modern Auto Coffee Filter & Gemini Modern Traditional Coffee Filter – 18%</p>
Mr. Abubacker Kaleelrahman of M/s. Sameer Mat Industries	Trading business of Polypropylene Mat (TAMILNADU AAR)	14 /AAR/2019 Dated 22 .03.2019	<p>The Applicant is engaged in the Trading business of Polypropylene Mat which are plaited using Polypropylene Straw. The questions were raised-</p> <p>1. <i>Whether Polypropylene Mat which are plaited using polypropylene Straw falls under Chapter Heading 4601 or 3902?</i> Answer – The Polypropylene Mat which are plaited using polypropylene Straw is classifiable under CTH 46019900</p> <p>2. <i>What is the tax rate for Polypropylene Mats?</i> Answer – Tax rate for Polypropylene Mats- The rate from or.r.2019 onwards is 2.5% CGST as per SI No 198AA of Schedule I of Notification No. OT 2017-C.T. (Rate) dated 28.06.2017 as amended and 2.5oh SGST as per SI No 198AA of Schedule I of Notification No. II (2)ICTRI532(d-4) 2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended</p>
MALLI RAMALINGAM MOTHILAL of M/s. M.R.Mothilal	Manufacturing Kalava Raksha Sutra (Sacred Thread) (TAMILNADU AAR)	12/AAR/2019 Dated 22 .03.2019	<p>The Applicant manufactures Kalava Raksha Sutra (Sacred Thread), tied on the wrist with different colours and sold in Kilograms. <i>The Applicant sought clarification, Whether the commodity viz., Kalava Raksha Sutra is exempted under the SI. No. 148 in any Chapter and also classification of HSN code of the product.</i> Answer – Braided textile yarns supplied by the Applicant made Polypropylene Yarn is classifiable under 56074900, made of Other Synthetic Yarn is classifiable under 56075090. made of Cotton is classifiable under 560790 90</p>

Value Max Polyplast	Manufacturing of Plastic (TAMILNADU AAR)	TN/10/AAR/2019 dated 27.02.2019	<ul style="list-style-type: none"> The applicant is the manufacturer of plastic injection modeled components which are used in various industries like Automotives, Consumer Goods Industries , Agricultural & others. The questions were raised- <ol style="list-style-type: none"> Clarification on classification of plastic Seedling Trays and applicable rate of tax Answer – Agricultural Seeding Trays made of base material of Polypropylene Granules manufactured by the applicant as plastic are classified under CTH 39269099 GST Rate – 18% The credit of ITC is available subject to fulfillment of conditions u/s16 & 17 of CGST/TNGST Act 2017.
Rajiv Gandhi Centre for aquaculture	Aquaculture Research & Development Center(TAMIL NADU AAR)	TN/09/AAR/2019 dated 22.01.2019	<ul style="list-style-type: none"> RGCA established under Marine Products Export Development Authority of Ministry of Trade & Commerce for the purpose of improving and modernizing various sustainable aquaculture activities and operates on a <u>no profit no loss</u> basis All services of RGCA related to life forms of animals & agricultural produce are exempted from GST , so RGCA is not liable to be registered under GST though the aggregate turnover exceeds Rs. 20 Lakhs RGCA avails technical services from experts and & corporate outside India for R&D purpose which is exempted under GST Even Farmer training programme falls under Agricultural extension service which is also exempted from GST Legal services provided to RGCA is liable under GST as per RCM provision. The questions were raised- <ol style="list-style-type: none"> Considering the nature of transactions carried out by the Rajiv Gandhi Centre for Aquaculture (RGCA) and various exemption notification(s) under GST Laws whether RGCA is required to register under GST Laws? If no registration is required for RGCA, whether compulsory registration u/s 24 is required to be made against any of the provisions of Section 24? Answer – The applicant is liable to be registered u/s 22 of CGST & TNGST Act If so, whether separate registration is to be taken from all the states where the offices of RGCA is situated? Explain the procedure to obtain registration Answer – RGCA shall obtain registration in every state/UT in which it is liable. If registration is required to be made, what are the tax rates applicable to the transactions of RGCA? Answer – <ul style="list-style-type: none"> ✓ Fish Seeds, Prawn or Shrimp Seeds – <u>Exempted</u> ✓ Live Fish supplied by RGCA – <u>Exempted</u> ✓ Artemia cysts supplied by RGCA- <u>5% GST</u> ✓ R&D towards breeding , developing new species , genetic testing of seed & adults of diversified aquaculture species , Gene sequencing for confirmation of species – <u>18% GST</u> ✓ Nursery Technology , cage farming hatching – <u>Exempted</u> ✓ Testing for pathogens of soil, water, feed , chemical analysis of water & soil, gene sequencing of pathogens-<u>18% GST</u> ✓ Training Services to Farmers – <u>Exempt</u> ✓ Training Activities for Students not involved directly in aquaculture - <u>18% GST</u> Since RGCA-Head office is having GST Registration (Migrated from TNVAT) at Tamil Nadu only other various project sites are located at different states but doesn't having the GST registration so far, If they want to purchase materials through interstate from Mumbai to its one of the branch at Kerala, how the purchases of the materials to be made

			<p><i>and what are the documents to be carried for the transport of such purchased goods under GST?</i></p> <p>Answer – This question is not within ambit of provisions of Advance Ruling</p>
HYT SAM INDIA(JV)	Construction Business(TAMILNADU AAR)	TN/08/AAR/2019 dated 22.01.2019	<ul style="list-style-type: none"> The applicant has been selected as lowest vendor as per Tender of Integral Coach Factory of Chennai for modernization of railway coach manufacturing set up This contract involves various works such as Erection , commissioning, Installation of Plant & Machinery , Equipment & Structures. The questions were raised- <ol style="list-style-type: none"> Whether the works awarded to the Applicant is composite supply of services? <p>Answer – It is a composite Supply</p> Whether the benefit of Sl.No.3 (v) of Notification No.11/2017- Central Tax (Rate) is applicable to subject works. <p>Answer – The supply in the agreement for Erection , commissioning, Installation of Plant & Machinery , Equipment & Structures covering schedule I, II, III is taxable @12% as per Notification No. 11/2017- Central Tax(Rate)</p> <p>The supply in the agreement for wet leasing of robotic spot welding machine & Laser cutting & welding machine as per schedule V(a) and schedule V(b) is not eligible for Sl.No.3(v)(a) of Notification No.11/2017- Central Tax (Rate)</p> <p>The Agreement for Comprehensive Annual Maintenance Contract of Mechanical & Electrical under Schedule VI(a) and schedule VI(b) is not eligible for Sl.No.3(v)(a) of Notification No.11/2017- Central Tax(Rate)</p> <ol style="list-style-type: none"> Whether the Applicant is required to raise invoice on completion of events/milestones and remit the tax. What is the value on which invoice has to be raised in case of event/milestone invoicing if required? <p>Answer – The value of supply for each invoice raised by the applicant will be the transaction value & should include the amount excluding discounts.</p> <p>The authority cannot give ruling on the supply of up-rooting and disposal of condemned M & Ps under Schedule IV , in which the applicant is a recipient as per section 95(a) of CGST Act/TNGST Act. The authority cannot give ruling on the question when to raise invoice by the applicant as per section 97(2) of CGST Act/TNGST Act.</p>
Subramani Sumathi	Preparation of Maida, Papad, Vadam (TAMILNADU AAR)	07/AAR/2019 Dated 22 .01.2019	<ul style="list-style-type: none"> The applicant is engaged in Preparation of Maida, Papad, Vadam. The question raised- <ol style="list-style-type: none"> The category of product Vadam/Papad made-up of Maida falls under the classification of 1905. <p>Answer – The Applicants product namely "Maida Vadam/Papad" is classifiable under '19050540' and is exempted from CGST and SGST vide S1 no 96 of Notification No. 0212017 -CT (Rate) dt 28.06.2017 as amended and Notification No.II(2)/CTR/532(d-5)12077 vide G.O. (Ms) No. 63 dated 29.06.20 17 respectively.</p>
Dream Runners Foundation	Public Charitable Activities(TAMILNADU AAR)	06/AAR/2019 Dated 22 .01.2019	<ul style="list-style-type: none"> The applicant is engaged in conducting public charitable activities such as Health care, Rural development, Women empowerment, Education facility etc, either directly or through various public charitable institutions for the common good of the general public. The question raised- <ol style="list-style-type: none"> Whether the conduct of marathon events by the Trust through which donations are raised for charity is an exempted service under GST ? <p>Answer – The conduct of Marathon event by the Applicant for the participants is a not an exempt supply under CGST/TNGST Act</p> When the Trust is approved under Sec 12AA of the Income Tax Act 1961, which means that the service of the Trust is charitable in nature, does it not automatically become a charitable activity that is exempted under GST?

			<p>Answer – Only those activities of Applicant, who is a Trust is under Sec 12AA of the Income Tax Act 7961, which fall under the definition of "charitable activities" as per Clause 2(r) of Notification 12/2017 Central Tax (Rate) dated 28th June 2017 and Notification No.II(2)/CTR/532(d-15)12017 vide G.O. (Ms) No. 73 dated 29.06.2017 are exempt.</p> <p>3. As the service rendered by the Trust is a charitable activity within the definition of Clause 2(r) of Notification No.12/2017-Central Tax (Rate), is registration under GST required?</p> <p>Answer – As the Applicant is supplying taxable supply of services such as organizing marathon etc. and has aggregate turnover in a financial year exceeding twenty lakh rupees, the Applicant is required to be registered under CGST/TNGST Act.</p> <p>4. Are donations received from participants of the marathon event exempted from GST as it is money paid for conduct of a marathon event for raising funds for charity?</p> <p>Answer – The money collected from the participants for conduct of the Marathon in the event organized by the Applicant and therefore is not exempted from CGST/ SGST.</p>
Vaya Life Private Limited	Redesigning products for daily life(TAMILNADU AAR)	04/AAR/2019 Dated 22 .01.2019	<ul style="list-style-type: none"> The applicant is start up in Chennai and delivers innovative products by redesigning products for daily life They have revamped tiffin box into smart product with sustainable design. . The question raised <p>1. What is the Harmonized system of nomenclature (HSN) code and the applicable GST rate for VAYA TYFFN (lunch boxes) and VAYA Drynk (bottle) in terms of notification 01/2017- Central Tax (Rate) dated 28/06/2017 as amended from time to time</p> <p>Answer –The goods “Vaya Tyffyn” and “Vaya Drynk” supplied by Applicant are classified under CTH 96170019 GST Rate 18%</p>
Animal Feed Analytical and Quality Assurance Laboratory	Testing of Animal Feeds, ingredients and Feed supplements used to make the feeds. (TAMILNADU AAR)	03/AAR/2019 Dated 21 .01.2019	<ul style="list-style-type: none"> The Applicant is engaged in Testing of Animal Feeds, ingredients and Feed supplements used to make the feeds. The question raised <p>1. Whether services related to rearing of all life forms of animals by way of testing include testing of Animal Feeds, Feed ingredients and Feed supplements used to make feeds are covered under Notification 12/2017 Central Tax (Rate) dated 28/06/2017?</p> <p>Answer – The services provided by the Applicant related to testing of Animal Feed /Feed ingredients are not be covered under Notification 12/2017 Central Tax (Rate) dated 28/06/2017 as amended for CGST and No.II(2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 for SGST.</p>
RmKV Fabrics Private Limited	Readymade garments(TAMILNADU AAR)	02/AAR/2019 Dated 21 .01.2019	<ul style="list-style-type: none"> The Applicant is engaged in the trading of readymade garments, fabrics and other similar items and have their showrooms at Tamilnadu The Applicant has stated that one of the products being sold by them is Salwar / Churidar Sets, comprising of three piece of cloths viz., Top, Bottom and Dupatta. The question raised <p>1. Whether the Salwar / Churidar sets being sold by the applicant compressing of three piece of cloth viz Top, Bottom and Dupatta would be classifiable as Fabrics under the relevant chapters and attract only 5% GST; or they would be classifiable as Articles of apparel and attract 5% GST if their sale price is below Rs. 1000 and attract 12% GST if their sale price is more than Rs.1000.</p> <p>Answer – Salwar/Chudidar sets supplied by the Applicant, Both Top and Bottom not stitched consisting of three pieces of fabrics (Top/Bottom/Dupatta) where no stitching has been done and the pieces are merely cut into fabrics from balesf than, is classifiable as fabric Chapter 50 to 55 depending on the material & GST Rate will be 5%</p> <p>Salwar/Chudidar sets supplied by the Applicant</p> <p>✓ Top semi - stitched and bottom not stitched consisting of</p>

			<p>bottom and dupatta fabrics cut from bales/than and the Top has already been partially cut into shape but requires further cutting and stitching to size</p> <ul style="list-style-type: none"> ✓ Top stitched but bottom not stitched consisting of bottom and dupatta fabrics cut from bales/than and the Top fully stitched ✓ Top Neck -worked, Both Top and Bottom not stitched consisting of bottom and dupatta fabrics cut from bales/than and the Top has neck portion cut and design worked <p>Will be classified under Tariff heading 621142/621143/621149 depending on the material. GST Rate for sale value not exceeding Rs 1000/piece- 5% GST Rate for sale value exceeding Rs 1000/piece-12%</p>
Kara Property Ventures LLP	Construction Company(TAMILNADU AAR)	01/AAR/2019 Dated 22 .01.2019	<ul style="list-style-type: none"> • The applicant has purchased the land from the land owner & then the construction activity is commenced on the said land to develop the project • The interested customer approached the Applicant for buying unit in the project. once the " commercials are agreed between the customer and the Applicant two agreements viz., Land and construction Agreements are entered with the customer and executed simultaneously. Thereafter, on receipt of 90% of total sale consideration, deed of sale is executed and registered in favour of customer for transferring the ownership of undivided share in land to the customer • The payment to be made by the customer is based on milestone linked to the stage of completion of the construction activity. • The unit is handed to the customer only after Deed of sale is executed and registered and the applicant obtains the completion certificate from the competent authority. The question raised <p>1. <i>What is the value of supply of services provided from July 1, 2017 in terms of the provisions of CGST ACT 2017 read with Notification No.11/2017- Central Tax(Rate) dated 28.06.2017(as amended from time to time)</i></p> <p>Answer – The value of supply of services provided by the Applicant in the project 'One Crest' in Chennai, wherein the Applicant has entered into two separate agreements, viz., one for 'Sale of undivided share of land' and the other for 'Construction' with the customers, the measure of levy of GST on the supply of service of 'Construction' shall be 2/3rd of the total value charged for construction service and amount charged for transfer of undivided share of land, as per entry No. 3(i) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and No.1(2)/CTR/532(d14)12017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.</p>

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

CENTRAL EXCISE NOTIFICATION

Notification No. 04/2019 Central Excise-NT
Date - 21st August, 2019

Implementation of Sabka Vishwas (Legacy Dispute Resolution) Scheme (SVLDRS), 2019

In exercise of the power conferred by sub-section (2) of section 120 of the Finance (No. 2) Act, 2019, the Central Government hereby appoints the **1st of September, 2019** as the date on which the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 shall come into force.

GOODS AND SERVICES TAX

CENTRAL TAX NOTIFICATION

Notification No. 36/2019 – Central Tax
Date - 20th August, 2019

Seeks to extend the date from which the facility of blocking and unblocking of e-way bill facility as per the provision of Rule 138E of CGST Rules, 2017 shall be brought into force to 21.11.2019

CBIC has made amendment in the Notification No.22/2019- Central Tax, dated the 23rd April, 2019, *Amendment* – The facility of blocking and unblocking of e-way bill facility as per the provision of Rule 138E of CGST Rules, 2017 will be effective from 21st November 2019 instead of 21st August 2019.

Notification No. 37/2019 – Central Tax
Date – 21st August, 2019

Seeks to extend the due date for furnishing FORM GSTR-3B for the month of July, 2019.

CBIC has made amendment in the Notification No.29/2019- Central Tax, dated the 28th June, 2019.

Amendment –

- FORM GSTR-3B shall be furnished on or before the 22nd August, 2019 for the month of July, 2019
- FORM GSTR-3B shall be furnished on or before the 20th September, 2019 for the month of July, 2019 by the registered persons whose principal place of business is in the specified districts of few states (***)

*(***) Specified Districts of few states*

Bihar - Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran

Gujarat – Vadodara

Karnataka-Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir

Kerala-Idukki, Malappuram, Wayanad, Kozhikode

Maharashtra-Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar

Odisha- Balangir, Sonepur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur

Uttarakhand- Uttarkashi and Chamoli

- FORM GSTR-3B shall be furnished on or before the 20th September, 2019 for the month of July, 2019 by the registered persons whose principal place of business is in Jammu and Kashmir

Notification No. 38/2019 – Central Tax
Date – 31st August, 2019

Seeks to waive filing of FORM ITC-04 for F.Y. 2017-18 & 2018-19

CBIC has notified the registered persons required to furnish the details of challans in FORM ITC-04 under sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017

Those registered persons who shall follow the special procedure such that the said persons shall not be required to furnish FORM ITC-04 under sub rule (3) of rule 45 of the said rules for the period July, 2017 to March, 2019:

Provided that the said persons shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31st March, 2019, in serial number 4 of FORM ITC-04 for the quarter April-June, 2019.

Notification No. 39/2019 – Central Tax
Date – 31st August, 2019

Seeks to bring Section 103 of the Finance (No. 2) Act, 2019 in to force

CBIC has appointed 1st September, 2019, as the date on which the provisions of section 103 the said Act, shall come into force.

Notification No. 40/2019 – Central Tax
Date – 31st August, 2019

Seeks to extend the last date in certain cases for furnishing GSTR-7 for the month of July, 2019

CBIC has made amendment in the Notification No.26/2019- Central Tax, dated the 28th June, 2019.

Amendment –

- The date of filling GSTR -7 for the month of July 2019 has been extended up to 20th September, 2019 in the specified districts of few states (***)

*(***) Specified Districts of few states*

Bihar - Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran.

Gujarat – Vadodara

Karnataka-Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir.

Kerala-Idukki, Malappuram, Wayanad, Kozhikode

Maharashtra- Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar.

Odisha - Balangir, Sonapur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur.

Uttarakhand- Uttarkashi and Chamoli

- FORM GSTR-7 shall be furnished on or before the 20th September, 2019 for the month of July, 2019 by the registered persons whose principal place of business is in Jammu and Kashmir

Notification No. 41/2019 – Central Tax
Date – 31st August, 2019

Seeks to waive the late fees in certain cases for the month of July, 2019 for FORM GSTR-1 and GSTR-6 provided the said returns are furnished by 20.09.2019

CBIC has waived the amount of late fee payable under section 47 of the said Act, by the following class of taxpayers: –

- The registered persons of specified districts of few states (***) having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year has filed GSTR-1 on or before the 20th September, 2019 for the month of July, 2019.
- The registered persons of Jammu & Kashmir having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year has filed GSTR-1 on or before the 20th September, 2019 for the month of July, 2019.
- The Input Service Distributors of specified districts of few states (***) has filed GSTR-6 on or before the 20th September, 2019 for the month of July, 2019.
- The Input Service Distributors of Jammu & Kashmir has filed GSTR-6 on or before the 20th September, 2019 for the month of July, 2019.

(*) Specified Districts of few states**

Bihar - Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran.

Gujarat - Vadodara

Karnataka-Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir.

Kerala-Idukki, Malappuram, Wayanad, Kozhikode

Maharashtra- Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar.

Odisha -Balangir, Sonepur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur.

Uttarakhand- Uttarkashi and Chamoli

CUSTOMS – NON TARIFF

Notification No. 62/2019 – -CUSTOMS (N.T.)

Date - 30th August, 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 amendment 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: -

"TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	554
2	1511 90 10	RBD Palm Oil	583
3	1511 90 90	Others – Palm Oil	569
4	1511 10 00	Crude Palmolein	585
5	1511 90 20	RBD Palmolein	588
6	1511 90 90	Others – Palmolein	587
7	1507 10 00	Crude Soya bean Oil	742

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-nt2019/csnt62-2019.pdf;jsessionid=F616EFA671C039EC8126F87A229B3F74>

CUSTOMS – ANTI DUMPING DUTY

Notification No. 33/2019 – -CUSTOMS (Add)

Date - 26th August, 2019

Seeks to impose provisional anti-dumping duty on imports of "Chlorinated Polyvinyl Chloride Resin (CPVC)- whether or not further processed into compound" originating in or exported from China PR and Korea RP for 06 months , in pursuance of anti-dumping investigation by DGTR.

In case of import of 'Chlorinated Polyvinyl Chloride Resin (CPVC)-whether or not further processed into compound' falling under heading 3904 of the First Schedule to the Customs Tariff Act, 1975 originating in, or exported from China PR and Korea RP and imported into India, the designated authority has come to the conclusion that

- the subject goods have been exported to India from the subject countries at prices less than their normal values in the domestic market of the exporting country;
- the dumping margins of the subject goods imported from the subject countries is above de minimis and substantial;
- the domestic industry is suffering material retardation and material injury due to the dumped imports of subject goods from the subject countries;
- provisional antidumping duties are required to be imposed in order to address injury being suffered by the domestic industry during investigation.

and has recommended imposition of 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/csadd33-2019.pdf;jsessionid=D98B7D6566AA5E00D56D64245B73BF67>

CUSTOMS – CIRCULARS

Circular No. – 25/2019

Date – 27.08.2019

IGST refunds- mechanism to verify the IGST payments for goods exported out of India in certain cases.

Circular No. 25/2019-Customs dated 27th August 2019 has been issued for performing comparison between the cumulative IGST payments in GSTR-1 & GSTR-3B for the period April 2018 to March 2019 to determine the discrepancy between IGST paid on exported goods between GSTR-1 and GSTR-3B.

For more details , please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2019/Circular-No-25-2019.pdf>

Circular No. – 26/2019

Date – 27.08.2019

IGST Export refunds- extension in SB005 alternate mechanism and revised processing in certain cases including disbursal of Compensation cess

CBIC has issued circular no. 05/2018-Customs dated 23.02.2018 , 08/2018-Customs dated 23.03.2018 , 15/2018-Customs dated 06.06.2018 and 40/2018-Customs dated 24.10.2018 wherein alternative mechanism with an officer interface to resolve invoice mismatches (SB005 error) was provided for shipping bills filed till 15.11.2018.

Despite wide publicity and outreach programmes to make exporters aware about the need to have identical details in invoices given in shipping Bills and GST returns, it has been observed that a few exporters continue to commit such errors. Therefore, in view of the recent announcement by Hon'ble Finance Minister, giving high priority to the interests of exporters, it has been decided by the Board to extend the rectification facility for all cases covered under Circular 40/2018-Customs dated 24.10.2018 to Shipping Bills filed up to 31.07.2019.

Field formations shall conduct outreach programmes to make all stakeholders aware about the correct procedure for claiming IGST refunds so that repeated errors are avoided/ minimised.

DIRECT TAX NOTIFICATIONS

Notification No. 58/2019/F. No. 503/02/1986-FTD-I
Date - 27.08.2019

Notification regarding Convention between the Government of the Republic of India and the Kingdom of Spain

Whereas, the Protocol, amending the Convention between the Government of the Republic of India and the Kingdom of Spain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital which was signed at New Delhi on the 8th February, 1993, has been signed at New Delhi on 26th October 2012, as set out in the ANNEXURE appended to this notification

And whereas, the date of entry into force of the said amending Protocol is the 29th December, 2014 being the two months after the receipt of later of the notifications of the completion of the internal procedures required by each Contracting State for giving effect to the said amending Protocol in accordance with Article 9 of the said amending Protocol;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said amending Protocol, as annexed hereto, shall be given effect in the Union of India.

For more details, please follow –
https://www.incometaxindia.gov.in/communications/notification/notification58_2019.pdf

Notification No. 59/2019/F. No. 370142/13/2019-TPL
Date - 30.08.2019

In exercise of the powers conferred by section 139A read with section 295 of the Income-tax Act, 1961 (43 of 1961), the CBDT has made following rules further to amend the Income-tax Rules, 1962, namely:

In the Income-tax Rules, 1962, in rule 114, __ (i) after sub-rule (1), the following sub-rules shall be inserted, namely:

“(1A) Any person, who has not been allotted a permanent account number but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the permanent account number in accordance with

sub-section (5E) of section 139A, shall be deemed to have applied for allotment of permanent account number and he shall not be required to apply or submit any documents under this rule.

(1B) Any person, who has not been allotted a permanent account number but possesses the Aadhaar number may apply for allotment of the permanent account number under sub-section (1) or subsection (1A) or sub-section (3) of section 139A to the authorities mentioned in sub-rule (2) by intimating his Aadhaar number and he shall not be required to apply or submit any documents under this rule.

(1C) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall on receipt of information under sub-rule (1A) or sub-rule (1B), as the case may be, authenticate the Aadhaar number for that purpose.”

(ii) after sub-rule (6), the following sub-rule shall be inserted, namely: __

“(7) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall lay down the formats and standards along with procedure for, __

(a) furnishing or intimation or quoting of Aadhaar number under sub-rule (1A); or

(b) intimation of Aadhaar number under sub-rule (1B); or

(c) authentication of Aadhaar number under sub-rule (1C); or

(d) obtaining demographic information of an individual from the Unique Identification Authority of India,

for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing or intimation or quoting or authentication of Aadhaar number or obtaining of demographic information of an individual from the Unique Identification Authority of India, for allotment of permanent account number and issue thereof.”

DIRECT TAX CIRCULARS

Circular No. 21 of 2019
Date - 27.08.2019

Clarifications in respect of filling-up of the ITR forms for the Assessment Year 2019-20

The Income-tax Return (ITR) forms for the Assessment Year (A.Y.) 2019-20 were notified

vide notification bearing G.S.R. 279(E) dated the 01st day of April, 2019. Subsequently, instructions for filing ITR forms were issued and the software utility for e-filing of all the ITR forms were also released. After notification of the ITR forms, various queries were raised by the stakeholders in respect of filling-up of the ITR forms. The queries were examined in the Board and a clarification was issued vide Circular No. 18 of 2019 dated 08.08.2019 to address the concerns raised.

Subsequently, further representations have been received on certain issues relating to filing of ITR Forms. Accordingly, following clarifications are issued in partial modification of Circular No. 18 of 2019.

In ITR Form-2 and ITR Form-3, in Part-A General, at column (h), the taxpayer is required to state whether he was Director in a company at any time during the previous year. In case of an affirmative answer, the taxpayer is further required to disclose following information relating to each company in which he was a Director:-

- (a) Name of Company
- (b) PAN
- (c) Whether its shares are listed or unlisted
- (d) Director Identification Number (DIN)

Representation has been received stating that non-residents are required to pay tax only in respect of income received in India or income accruing or arising in India. Nonresidents are not required to disclose their assets outside India. Therefore, non-residents should not be required to disclose details of directorship in foreign companies. The disclosure requirement in ITR forms should be limited only to assets and incomes which have a nexus with India.

In this regard, it is stated that the disclosure requirement in ITR forms in respect of directorship in a company is meant only for the purpose of reporting. The details entered in this column are, in general, not relevant for computation of total income or tax liability of the assessee. As such, the requirement to disclose directorship in a foreign company by a non-resident taxpayer, does not tantamount to disclosure of any foreign source income or foreign asset held by such taxpayer.

However, to allay the apprehensions in the minds of non-resident taxpayers, it is hereby clarified that a non-resident shall not be required to disclose details of his directorship in a foreign company, which does not have any income received in India, or accruing or arising in India. In other words, a non-resident taxpayer who is

Director only in a foreign company, which does not have any income received in India, or accruing or arising in India, should answer the relevant question in the negative, whereupon he would not be required to disclose details of such foreign company. It is further clarified that a non-resident taxpayer, who is Director in a domestic company and also in a foreign company, which does not have any income received in India, or accruing or arising in India, should answer the relevant question in the affirmative, and provide details of directorship in the domestic company only. It is also clarified that a resident taxpayer would continue to be required to disclose details of his directorship in any company, including foreign company, in the relevant column.

Further, in ITR Form-2, ITR Form-3, ITR Form-5, ITR Form-6 and ITR Form-7, in Part-B-TTI, before the verification part, a taxpayer, who is resident in India, is required to state whether he had any time during the previous year:-

- a) held, as beneficial owner, beneficiary or otherwise, any asset (including financial interest in any entity) located outside India; or
- b) had signing authority in any account located outside India; or
- c) had income from any source outside India?

In case of an affirmative answer, the taxpayer is required to fill up the Schedule FA. In Schedule FA, the taxpayer is required to disclose the details of foreign assets etc. held at any time during the relevant accounting period.

Representation has been received citing example of cases where the foreign assets have been acquired after the end of "relevant accounting period" (in foreign jurisdiction) but before the end of "previous year" (in India). In such cases, the taxpayer would have to answer the question in Part-B-TTI in the affirmative, and consequently, would be required to fill up the details of foreign assets etc. in Schedule FA. Since the assets were acquired after the end of relevant accounting period, no amounts would be required to be reported in Schedule FA. However, if the taxpayer reports Nil amount in all tables of Schedule FA, the ITR form does not get validated.

In this regard, it is hereby clarified that a taxpayer shall be required to answer the relevant question in the affirmative, only if he has held the foreign assets etc. at any time during the "previous year" (in India) as also at any time during the "relevant accounting period" (in the foreign tax jurisdiction), and fill up Schedule FA accordingly.

PRESS RELEASE

INDIRECT TAX

Press Release
Date – 22.08.2019

Legacy Dispute Resolution Scheme, 2019

In the Union Budget 2019-20, the Hon'ble Finance Minister announced the Sabka Vishwas - Legacy Dispute Resolution Scheme, 2019. The Scheme has now been notified and will be operationalized from 1st September 2019. The Scheme would continue till 31st December 2019. Government expects the Scheme to be availed by large number of taxpayers for closing their pending disputes relating to legacy Service Tax and Central Excise cases that are now subsumed under GST so they can focus on GST.

The two main components of the Scheme are dispute resolution and amnesty. The dispute resolution component is aimed at liquidating the legacy cases of Central Excise and Service Tax that are subsumed in GST and are pending in litigation at various forums. The amnesty component of the Scheme offers an opportunity to the taxpayers to pay the outstanding tax and be free of any other consequence under the law. The most attractive aspect of the Scheme is that it provides substantial relief in the tax dues for all categories of cases as well as full waiver of interest, fine, penalty, In all these cases, there would be no other liability of interest, fine or penalty. There is also a complete amnesty from prosecution.

For all the cases pending in adjudication or appeal – in any forum - this Scheme offers a relief of 70% from the duty demand if it is Rs.50 lakhs or less and 50% if it is more than Rs. 50 lakhs. The same relief is available for cases under investigation and audit where the duty involved is quantified and communicated to the party or admitted by him in a statement on or before 30th June, 2019. Further, in cases of confirmed duty demand, where there is no appeal pending, the relief offered is 60% of the confirmed duty amount if the same is Rs. 50 lakhs or less and it is 40%, if the confirmed duty amount is more than Rs. 50 lakhs. Finally, in cases of voluntary disclosure, the person availing the Scheme will have to pay only the full amount of disclosed duty.

As the objective of the Scheme is to free as large a segment of the taxpayers from the legacy taxes as possible, the relief given thereunder is substantial. The Scheme is especially tailored to free the large number of small taxpayers of their pending disputes with the tax administration. Government

urges the taxpayers and all concerned to avail the Sabka Vishwas - Legacy Dispute Resolution Scheme, 2019 and make a new beginning

Press Release
Date – 26.08.2019

Extension of Due Date to 30th November, 2019 for furnishing 'Annual Return and Reconciliation Statement' for FY 2017-18

It is hereby informed that the last date for furnishing of Annual Return in the FORM GSTR-9 / FORM GSTR-9A and Reconciliation Statement in the FORM GSTR-9C for the Financial Year 2017-18 is extended from 31st August, 2019 to 30th November, 2019.

DIRECT TAX

Press Release
Date – 22.08.2019

CBDT issues clarification on eligibility of small Start-ups to avail tax holiday

The Central Board of Direct Taxes (CBDT) has clarified today that small startups with turnover upto Rs. 25 crore will continue to get the promised tax holiday as specified in Section 80-IAC of the Income Tax Act, 1961(the 'Act'), which provides deduction for 100 per cent of income of an eligible start-up for 3 years out of 7 years from the year of its incorporation.

CBDT further clarified that all the start-ups recognised by DPIIT which fulfilled the conditions specified in the DPIIT notification did not automatically become eligible for deduction under Section 80-IAC of the Act. A start-up has to fulfil the conditions specified in Section 80-IAC for claiming this deduction. Therefore, the turnover limit for small start-ups claiming deduction is to be determined by the provisions of Section 80-IAC of the Act and not from the DPIIT notification.

CBDT dispelled the confusion created by some media report claiming discrepancy that the I-T law was yet to reflect DPIIT's higher turnover threshold of Rs. 100 crore. CBDT said that there was no contradiction in DPIIT's notification dated 19.02.2019 and Section 80-IAC of the I.T. Act, 1961 because in para 3 of the said notification, it has clearly been mentioned that a start-up shall be eligible to apply for the certificate from the Inter-Ministerial Board of Certification for claiming deduction under Section 80-IAC of the

Act, only if the start-up fulfils the conditions specified in sub-clause (i) and sub-clause (ii) of the Explanation of Section 80-IAC. Therefore, the turnover limit for eligibility for deduction under section 80-IAC of the Act, as per the DPIIT's notification is also Rs. 25 crore.

It is further stated that Section 80-IAC contains a detailed definition of the eligible start-up which, inter alia, provides that a start-up which is engaged in the eligible business shall be eligible for deduction, if (i) it is incorporated on or after 1st April 2016, (ii) its turnover does not exceed Rs. 25 crore in the year of deduction, and (iii) it holds a certificate from the Inter-Ministerial Board of Certification.

It was explained that this was the major reason as to why there was a wide difference between the number of start-ups recognised by the DPIIT and the startups eligible for deduction under section 80-IAC of the Act. It is pertinent to state that Section 80-IAC was inserted vide Finance Act, 2016 as an exception to the Government's stated policy of phasing out profit-linked deduction for promoting small start-ups during their initial year of operation. Since the intention was to support the small start-ups, the turnover limit of Rs. 25 crore was considered reasonable for granting profit linking deduction.

Press Release
Date – 24.08.2019

Government withdraws enhanced surcharge on tax payable on transfer of certain assets

In order to encourage investment in the capital market, it has been decided to withdraw the enhanced surcharge levied by Finance (No. 2) Act, 2019 on tax payable at special rate on income arising from the transfer of equity share/unit referred to in section 111A and section 112A of the Income-tax Act, 1961 (the 'Act') from the current FY 2019-20. The following capital assets are mentioned in section 111A and section 112A of the Act:

- i) Equity shares in a company;
- ii) Unit of an equity oriented fund;
- iii) Unit of a Business Trust

The derivatives (Future & options) are not treated as capital asset and the income arising from the transfer of the derivatives is treated as business income and liable for normal rate of tax. However, in the case of Foreign Institutional Investors (FPI), the derivatives are treated as capital assets and the gains arising from the transfer of the same is treated as capital gains and subjected to a special rate of tax as per the provisions of section 115AD

of the Act. Therefore, it is also decided that the tax payable on gains arising from the transfer of derivatives (Future & options) by FPI which are liable to special rate of tax under section 115AD of the Act shall also be exempted from the levy of the enhanced surcharge.

Therefore, the enhanced surcharge shall be withdrawn on tax payable at special rate by both domestic as well as foreign investors on long-term & short-term capital gains arising from the transfer of equity share in a company or unit of an equity oriented fund/business trust which are liable for securities transaction tax and also on tax payable at special rate under section 115AD by the FPI on the capital gains arising from the transfer of derivatives. However, the tax payable at normal rate on the business income arising from the transfer of derivatives to a person other than FPI shall be liable for the enhanced surcharge.

Press Release
Date – 28.08.2019

CBDT issues clarification on perceived differential taxation of FPIs and domestic investors

It has come to the notice of the Central Board of Direct Taxes (CBDT) that an incorrect perception was being created in a section of the media inasmuch as if the announcements made by the Hon'ble Finance Minister on last Friday, which brought in a number of responsive structural measures to boost up the economy, had created a differential regime between FPIs and domestic investors including AIF category III.

Dispelling this false impression being created in certain sections of the media including social media, it is clarified that differential regime between domestic investors (including AIF category III) and FPIs existed even prior to the 2019 budget and was therefore not the creation of the Finance (No 2) Act, 2019 or the announcement made by the Finance Minister on last Friday.

In this regard, it is further stated, that, in case of Foreign Institutional Investors (FPIs), Income Tax Act, 1961 (the 'Act') contains special provisions [section 115AD read with section 2(14) of the Act] for taxation of income from derivatives. Under this regime, income of FPIs arising from derivatives was treated as capital gains and liable for special rate of tax as per section 115AD of the Act. However income arising from derivatives for the domestic investors including Alternative Investment Funds (AIFs) category-III as well as for foreign investors who are not FPIs, has always

been treated as business income and not as capital gains, and taxed at applicable normal income tax rates. The differential regime therefore already existed for FPIs through Section 115 AD. Therefore to say, that this year's budget or FM's announcement of last Friday created a differential regime between FPIs and domestic investors is incorrect.

Press Release
Date - 30.08.2019

Clarification on applicability of Tax Deduction at Source on cash withdrawals

In order to discourage cash transactions and move towards less cash economy, the Finance (No. 2) Act, 2019 has inserted a new section 194N in the Income-tax Act, 1961 (the 'Act'), to provide for levy of tax deduction at source (TDS) @2% on cash payments in excess of one crore rupees in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from one or more accounts maintained with it by the recipient. The above section shall come into effect from 1st September, 2019.

Since the section provided that the person responsible for paying any sum, or, as the case may be, aggregate of sums, in cash, in excess of one crore rupees during the previous year to deduct income tax @2% on cash payment in excess of rupees one crore, queries were received from the general public through social media on the applicability of this section on withdrawal of cash from 01.04.2019 to 31.08.2019.

The CBDT, having considered the concerns of the people, hereby clarifies that section 194N inserted in the Act, is to come into effect from 1st September, 2019. Hence, any cash withdrawal prior to 1st September, 2019 will not be subjected to the TDS under section 194N of the Act. However, since the threshold of Rs. 1 crore is with respect to the previous year, calculation of amount of cash withdrawal for triggering deduction under section 194N of the Act shall be counted from 1st April, 2019. Hence, if a person has already withdrawn Rs. 1 crore or more in cash upto 31st August, 2019 from one or more accounts maintained with a banking company or a cooperative bank or a post office, the two per cent TDS shall apply on all subsequent cash withdrawals.

Press Release
Date - 30.08.2019

CBDT constitutes Start-up Cell for redressal of grievances related to Start-ups

One of the measures pertaining to taxation announced by the Hon'ble Finance Minister as part of the several measures to boost the economy was the withdrawal of 'Angel Tax' provisions for Start-ups and their investors. As part of the measures for mitigating the genuine difficulties of Start-ups, it was decided that a dedicated cell would be set up under a Member of CBDT for addressing the specific problems of Start-ups.

In order to redress grievances and address various tax related issues in the cases of Start-ups, a Start-up Cell has been constituted by CBDT on 30.08.2019 with the following ex-officio members:

SN	Portfolio	Designation
1	Member (IT &C)	Chairman
2	JS-TPL-II	Member
3	CIT(ITA)	Member
4	Director (ITA-I)	Member Secretary
5	Under Secretary (ITA-I)	Member

The Cell will work towards redressal of grievances and mitigate tax-related issues in case of Start-up entities with respect to administration of the Income-tax Act, 1961.

Grievances relating to Start-ups may be filed with the O/o Under Secretary, ITA-I, Room No.245A, North Block, New Delhi - 110001 as well as online at startupcell.cbdt@gov.in. The Cell will also be accessible telephonically on 011- 23095479 /23093070 (F).

Start-up entities can approach the Cell for speedy resolution of their grievances. This initiative is the latest amongst the recent initiatives taken by CBDT to further ease the compliance issues pertaining to Start-ups.

JUDGEMENTS

INDIRECT TAX

“Action of Authorities is Nothing short of Extortion”: Gujarat HC slams Sales Tax Authority

Micromax Informatics Ltd. vs. State of Gujarat
Civil Application No. – 5357 of 2019

Date – 07.08.2019

Fact of the Case

- In the present case Micromax Informatics Ltd. is the applicant
- After an audit assessment under provisions of the Gujarat Value Added Tax Act, Micromax was on October 30, 2018, directed by the deputy commissioner of state tax in Ahmedabad to pay Rs 1,49,27,723 as tax.
- Following this, the company moved an appeal under Section 73 of the Act to a stay against the assessment order.
- On January 25, 2019, the company's banker received a notice from the sales tax deputy commissioner, demanding the release of the amount, even as the copy of the notice was not served on the company.

Decision of the Case

After having gone through the case in details the division bench expressed strict view of the matter in the following way

- This is not the way and the manner to recover tax.
- The department should not get somuch desperat for the revenue.
- The revenue is to be collected in accordance with law.
- The action at the end of the authorities in the present case is nothing short of extortion”.
- The Court also ordered that, The amount of Rs.1,49,27,723/ with interest at the rate of 6% p.a. from the date of 15/02/2019 shall be refunded to the writ applicant within a period of One week from today without fail.

State Govts Deemed to be Registered Dealers for the purpose of ITC: SC Upholds Validity of the Provisions of the TN VAT Act, 2006

M/S TVS Motors Company Ltd. vs. State of Tamil Nadu & Others

Civil Application No. – 10560-10564 of 2018

Date – October 2018

Fact of the Case

- In the present case the state Tamil Nadu is the respondent & a group of traders are writ petitioners.
- A White Paper released by the Committee of Finance Ministers in 2005 proposed that Input Tax Credit (ITC) would be available to set-off against tax liability on all intra-state and inter-state sales.
- The Tamil Nadu Legislative Assembly passed the Tamil Nadu Value Added Tax Act, 2006, under which one of the provisions laid down that ITC would not be allowed on the purchase of goods sold as such or used in the manufacture of other goods and sold in the course of inter-State trade or commerce, to an unregistered dealer under another State.
- Moreover, a notification issued by the Government of Tamil Nadu mandated the necessity of a Form ‘C’ in order to avail ITC.

Decision of the Case

- The High Court had noted the specific stand taken by the State Government to the fact that in respect of unregistered dealer in other States, the State of Tamil Nadu has no mechanism to prevent evasion of tax and loss of revenue cost by trade with such unregistered dealers in the State of Tamil Nadu.
- Therefore, the provision was aimed at achieving a specific and justified purpose and could not be treated as discriminatory, and thus not unconstitutional.
- The purpose of inserting provisions denying ITC was to protect the Government Revenue against clandestine transactions resulting in the evasion of tax.
- The Supreme Court clarified that when dealers who are making sales exclusively to the other State Governments (i.e. outside the State of Tamil Nadu), the said States would be deemed as registered dealers for the purposes of availing benefits of ITC.
- The Supreme Court of India upheld the decision of the High Court of Judicature at Madras has dismissed a batch of writ petitions which challenged the constitutional validity of the provisions of the Tamil Nadu Value Added Tax Act, 2006.

**No Arrest on ground of Mere 'Suspicion':
Gujarat High Court to GST Dept**

Vimal Jasgwantgiri Goswami vs. State of Gujarat

Civil Application No. - 13679 of 2019

Date - 07.08.2019

Fact of the Case

- In the present case a city based trader Vimal Goswami is the applicant here.
- The petitioner approached the High Court apprehending an arrest by the GST authorities invoking powers under section 69 of Central GST Act.
- GST officials searched his home on July 19 and put seal on documents kept in his cupboard. He was then issued summons on July 23 asking him to remain present before the authority on July 25.
- The seal was removed on July 26 by the officials. Next day on July 27, another summons was issued to him ordering his presence on the same day.
- Goswami approached the HC through advocate Chetan Pandya, who argued before the HC that there is a laid down procedure in the law for the department to determine tax liability of a trader.

Decision of the Case

- The bench comprising J B Pardiwala and Justice A C Rao clarified that the authorities should not use the power to arrest without 'completing their homework' namely determining the tax liability and ascertaining the evasion.
- The petitioner also expressed apprehension that the authorities may arrest Goswami by invoking powers under section 69 of CGST Act. Once arrested, it would be difficult for the person to come out of jail for two months and he faces maximum punishment of five years, if convicted for tax evasion. But the department intends to do the procedure of determination of tax liability after arrest, which is against constitutional rights of a person and in violation of GST laws.
- The court has sought explanation on such arrests by September 18. While staying Goswami's arrest, the High Court said, "The powers of arrest under section 69 of the Act, 2017 are to be exercised with lot of care and circumspection. Prosecution should normally be launched only after the adjudication is completed".

Naturopathy, Yoga, Ayurveda are Health Care Services, No GST: AAR

Alcom Resorts Holiday Pvt. Ltd. vs. GOA AAR

Application No. - Goa/GAAR/6 of 2018-19/3749

Date - 27.12.2018

Fact of the Case

- The applicant, Devaaya Ayurveda & Nature Cure Centre providing treatment services to patients through Ayurveda, Naturopathy and Yoga wanted to know if it qualifies as a clinical establishment and whether the services provided qualify to be health care services which are exempted under Central Tax (Rate).
- The applicant contended that it provides health services for both international and Indian patients for neuro-muscular problems, post-chemo therapy, post-radio therapy treatment, skin problems, metabolic issue orthopedic problems and etc.
- It also contended that it has a team of doctors specialized in naturopathy, yoga and Ayurveda that conduct body composition assessment and records detailed history of the ailment
- Based on such analysis medications, diet restrictions and daily treatments are planned.

Decision of the Case

- After considering the legal provisions and facts of the case, the AAR held that the services provided by way of appropriate diagnosis, appropriate medicines. Under supervision of qualified doctors in its Center would qualify as clinical establishment and the services offered by it would qualify to be healthcare services.
- Further, the Authority held that various treatments, supply of medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis would be considered as "Composite Supply"
- Hence, it is eligible for exemption under the category of healthcare services.

No GST on Cost of Tools supplied by Original Equipment Manufacturer on Free of Cost: AAR

M/S Toolcomp Systems Pvt. Ltd. vs. Karnataka AAR

[Application No. – KAR ADRG 13/2019](#)

[Date – 16.07.2019](#)

Fact of the Case

- In the present case original equipment manufacturer is the applicant who is engaged in manufacturing and selling of plastic moulds , press tools , jigs , fixtures/gauges as per specific orders & requirements of the customers.
- The assessee submitted that the tool was either manufactured by them or supplied by the customers free of cost, for production of 'parts', on a returnable basis.
- The assessee further submitted that the injection moulds (tools) supplied by the customers at free of cost basis, for the manufacture of parts, on a returnable basis were classified under capital goods.

Decision of the Case

- While allowing the petition, the AAR has said that, "The cost of tools/supplied original equipment manufacturer (OEM) on free of cost (FOC) basis to an applicant is not required to be added to the value of the parts supplied by the applicant.
- The Karnataka Authority of Advance Ruling (AAR) has ruled that, Goods and Services Tax (GST) not applicable on cost of tools supplied by Original Equipment Manufacturer on free of cost basis.

DIRECT TAX

Closing Allowance to Employees can't be Disallowed If Quantifiable: ITAT

[District Cooperative Bank vs. DCIT, Delhi Bench](#)

[Case No. – 1051/Del/2017](#)

[Date – 06.08.2019](#)

Fact of the Case

- District Cooperative Bank of Uttarpradesh is the assessee in the present case
- The assessee, filed the income tax return on 28/09/2013 declaring total income of Rs.5,25,63,310/-. The case was selected for scrutiny and notice under section 143(2) of the Income-tax Act, 1961 was issued and complied with.
- The Assessing Officer made various additions to the returned income and assessed the income at Rs.8,85,81,080/-.

- On appeal, the assessee approached the Commissioner of Income Tax (Appeals) wherein the claim of the assessee was partly allowed. Therefore, the Revenue filed an appeal before the Tribunal.

Decision of the Case

After hearing both the sides, the Tribunal observed the followings-

- The amount of closing allowance is quantifiable in respect of each employee.
- It is also not in dispute that the amount was incurred wholly and exclusively for the purpose of the business.
- Since the amount of provision is quantifiable, the same cannot be said as an unascertained liability.
- Accordingly, the same is allowable under section 37(1) of the Act as incurred wholly and exclusively for the purpose of the business of the assessee. The ground of the appeal of the Revenue is accordingly dismissed

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

[Sri Harish Narinder Salve vs. Assistant Commissioner of Income Tax](#)

[Case No. – 2285/Del/2016](#)

[Date – 13.08.2019](#)

Fact of the Case

- In the present case the senior advocate Harish Salve is the assessee
- Salve claimed the deduction in the returns of Rs.50,52,50,407 filed for the assessment year 2011-12.
- The Senior Advocate, who recently represented India before the International Court of Justice in the Kulbhusan Jadhav case.
- He argued that the foreign scholarship increased his international visibility and enabled him to develop contacts with academia in UK.

Decision of the Case

- The Tribunal observed that the allowability of an expenditure incurred by the assessee u/s 37 (1) of the act is required to be tested in accordance with nature and scale of the business/ profession of the assessee.
- The expenditure incurred by the assessee is the routine day-to-day expenditure

incurred by the assessee for promoting his professional profile.

- These expenditure cannot be held to be capital expenditure in nature as no fresh new fixed assets is created by paying the scholarship sum.
- Further merely because in the agreement it is mentioned as an annual gift in the form of scholarship, it does not become a gift. In fact, it is the expenditure incurred by the assessee in furtherance of his business.”

Interest from Motor Accident Compensation not subject to Income Tax: Bombay High Court

Sri Rupesh Rashmikant Shah vs. Union of India & Others

Writ Petition No. – 2902 of 2016

Date – 8.08.2019

Fact of the Case

- The petitioner, an eight-year-old city boy was left maimed for life in a car accident.
- The victim Rupesh Shah, is now 48. Shah, a resident of South Mumbai, was crossing a road when a car hit him in 1978. He remained in coma for six months, and after regaining consciousness, he learnt that the accident had left him with severe injuries including permanent brain damage.
- His parents approached the Motor Vehicles Accident Claim Tribunal seeking that Oriental Insurance, the company that had insured the car, be directed to pay compensation.
- His plea was allowed but the insurance company went in appeals, first to the high court and then to the Supreme Court. The Supreme Court finally in 2015 upheld the Bombay High Court’s ruling that awarded Shah a compensation of Rs. 39.92 lakh.
- The High Court also ruled that Shah be paid an interest of 9% on this principal amount of the compensation since the time he filed the insurance claim. Inconsequent to this, he received Rs. 1.42 crore in total in compensation.
- The income tax department has held that 30% tax should be levied on the said amount. He approached the Court challenging the notice and also contended that the department should not have deducted tax on the interest amount that he had received as part of compensation. Under the Motor Vehicles Act, the principal amount of compensation is not taxable, so

the interest accrued on the same should not have been taxed either, he argued.

- The Income Tax Department, however, contended that the interest being distinct from the principal amount of compensation is taxable as income from an additional source.

Decision of the Case

- The High Court on Thursday held that the interest earned by Shah for the period between filing of the claim and awarding of compensation by the high court in 2014 should not have been considered as income, and therefore, not taxed.
- The bench also said the IT Department assessor made a mistake in issuing the further tax liability notice to Shah. It sent back the notice, directing the department to re-assess the same.
- A two-judge bench of the Bombay High Court comprising Justices Akil Kureshi and S J Kathawalla has held that the income tax should not have been deducted from the interest on the motor accident compensation awarded by the court.

No Deemed Dividend If Assessee was not a Shareholder at the Time of Advance: ITAT

The Assistant Commissioner of Income Tax vs. M/S Bhawani Shankar Ginning Factory

ITA No. – 245/Pun/2017

Date – 01.08.2019

Fact of the Case

- Assessee is a partnership firm started to be engaged in the business of cotton ginning, pressing and manufacturing.
- During the course of assessment proceedings, AO noticed that assessee had received a loan from Mahesh Ginning Pvt. Ltd., in which both the partners of the firm i.e., Goverdhandash H. Tayal and Gopal Hazarimal Tayal held 18.19% share each.
- He also noticed that assessee firm had only two partners holding 50% share each.
- AO was therefore of the view that the transaction of receipt of loan by the assessee qualified as dividend u/s 2(22)(e) of the Act.

Decision of the Case

- At the time of decision by the Learned CIT(A) in favour of the assessee has given a

finding that the chief ingredient of Sec.2(22)(e) of the Act is that one should be a shareholder on the date on which the advance was made.

- Though the advances were made out of the profits of the lending company the assessee was not the registered shareholder and beneficial interest was not existing.
- As per decision of Honorable Bombay High Court in another case it has held that the receipt of loan cannot be contemplated as deemed dividend u/s 2(22)(e) of the Act.
- The Pune bench of the Income Tax Appellate Tribunal (ITAT) has held that deemed dividend cannot be applied when the assessee was not a shareholder at the time of the advance.

Late Fee not leviable on TDS Statements filed before 1st June 2015: ITAT

Parmanganent Magnets Ltd. vs. DCIT, Mumbai Bench

Case No. – 6436 to 6442/Mum/2018

Date – 07.08.2019

Fact of the Case

- In the present case the assessee filed quarterly TDS after due date.
- The penalty under section 234E of the Act has also been reflected here.
- The A.O imposed penalty for late filing of quarterly TDS statement which is leviable u/s 234E of the Act for each day's default.
- The assessee appealed to the Tribunal and argued that the late fee u/s 234E of the Income Tax Act is not leviable u/s 234E, 200A
- It was also argued that the provisions of Section 200(3) of the Act speak that for late filing of the TDS statement of each quarter, the fee is liable to be imposed w.e.f. 01.04.2005 and the provisions of Section 272A (2)(k) of the Act provide for levy of penalty of Rs.100 per day for each day of default in filing TDS inserted w.e.f. 01.04.2005.
- The assessee failed to secure relief from the first appellate authority and approached the Tribunal on the second appeal.

Decision of the Case

- On the basis of various judicial precedents including the Karnataka High Court ruling

in case of Fatheraj Singhvi, the Tribunal held that “the finding of the CIT(A) is not justifiable, therefore, we set aside the finding of the CIT(A) in all the appeals and delete the fee u/s 234E of the Act. All the appeals filed by the assessee are hereby allowed.”

- The Mumbai bench of the Income Tax Appellate Tribunal (ITAT) has held that the late fee under Section 234E of the Income Tax Act, 1961 is not leviable for the TDS statements which had been filed prior to 1st June 2015.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Date	Return Type
10-09-2019	GSTR 8 - for the month of July, 2019 - Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws
11-09-2019	GSTR 1 - to be filed by the taxpayers with Annual Aggregate turnover above Rs. 1.50 Crore or opted to file monthly Return for the month of July 2019
13-09-2019	GSTR 6 - Due date for Furnishing return of July 2019 by Input Service Distributors (ISD)
20-09-2019	GSTR 3B - for the month of August 2019
20-09-2019	GSTR 5 & 5A - to be filed by the <i>Non-Resident taxable person</i> & <i>OIDAR</i> for the month of August 2019.

DIRECT TAX CALENDAR - SEPTEMBER, 2019

07.09.2019

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

14.09.2019

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

15.09.2019

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2019 has been paid without the production of a challan
- Second instalment of advance tax for the assessment year 2020-21
- 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 August, 2019

30.09.2019

- Audit report under section 44AB for the assessment year 2019-20 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on September 30, 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 August, 2019
- 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 September 30, 2019)
- Annual return of income for the assessment year 2019-20 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner of a firm whose accounts are required to be audited).
- 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 September 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 September 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 does not have any international/specified domestic transaction]
- 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 September 30, 2019).

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

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

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

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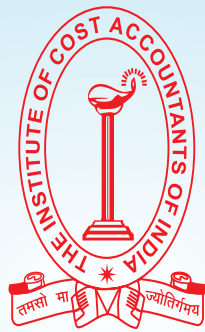
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