



November, 2024

TAX Bulletin

Volume - 171

02.11.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

Ph: 091-11-24666100

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.”

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.”

Objectives of Taxation Committees:

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 and also Crash Courses on GST for Colleges and Universities.

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Certificate Courses Offered by the Tax Research Department

1. Certificate Course on GST (CCGST)
2. Advanced Certificate Course on GST (ACCGST)
3. Advanced Certificate Course on GST Audit and Assessment Procedure (ACGAA)
4. Certificate Course on TDS (CCTDS)
5. Certificate Course on Filing of Returns (CCFOF)
6. Advanced Course on Income Tax Assessment and Appeals (ACIAA)
7. Certificate Course on International Trade (CCIT)

Admission Link - <https://eicmai.in/advsc/DelegatesApplicationForm-new.aspx>

Modalities

Description	Course Name						
	CCGST	ACCGST	ACGAA	CCTDS	CCFOF	ACIAA	CCIT
Hours	72	40	30	30	30	30	50
Mode of Class	Offline/ Online	Online					
Course Fee* (₹)	10,000	14,000	12,000	10,000	10,000	12,000	10,000
Exam Fee* (₹)	1,000 per attempt						
Discounts	20% Discount for CMA Members, CMA Qualified and CMA Final Pursuing Students						

*18% GST is applicable on both Course fee and Exam fee

Eligibility Criteria for Admission

- ▲ Members of the Institute of Cost Accountants of India
- ▲ Other Professionals (CA, CS, MBA, M.Com, Lawyers)
- ▲ Executives from Industries and Tax Practitioners
- ▲ Students including CMA Qualified and CMA Pursuing

On passing the examination with 50% marks a Certificate would be awarded to the participant with the signature of the President of the Institute

Course Details

<https://icmai.in/TaxationPortal/OnlineCourses/index.php>

Courses for Colleges & Universities by the Tax Research Department

Modalities

Eligibility

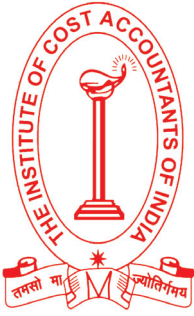
- ▲ B.Com/ BBA pursuing or completed
- ▲ M.Com/ MBA pursuing or completed

Description	Courses for Colleges and Universities	
	GST Course	Income Tax
Batch Size	Minimum 50 Students per Batch per course	
Course Fee* (₹)	1,000	1,500
Exam Fee* (₹)	200	500
Duration (Hrs)	32	32

For enquiry about courses, mail at: trd@icmai.in

*18% GST is applicable on both Course fee and Exam fee

Behind every successful business decision, there is always a **CMA**



Chairman's Message



CMA Rajendra Singh Bhati
Chairman Direct Taxation Committee

We would like to start with wishing all the readers a very happy Diwali, May the glow of the diyas fill your life with warmth and joy and bring endless moments of joy, love, and success. Happy Diwali to you and your family!

Now, let us consider some of the important changes that have come into implementation in this month, October, 2024.

- (i) One of the important change being the implementation of Vivad Se Vishwas Scheme, 2024, with the purpose of reduction of litigation and encouraging quick resolve of the issues with incentives for early settlement for the taxpayers
- (ii) From October 1, 2024, the government has decided to discontinue the provision of allowing Aadhaar enrollment ID to be used in place of the Aadhaar number in PAN-related documents. From this date, individuals will need to provide their Aadhaar number, not just the enrollment ID, for PAN allotment and while filing income tax returns
- (iii) Some changes in TDS rates are also incorporated like:
 - 10% TDS on Central and State Government Bonds: New TDS rates apply to government bonds.
 - TDS on Life Insurance: Revised rates for TDS on life insurance policy payouts.
 - TDS on Rent Payments: Changes in the TDS rates for house rent and other payments.

On the departmental side a webinar has been undertaken in Direct Tax on 15.10.2024 on the topic “ Vivaad se Vishwas Scheme, 2024”. The faculty for the webinar was CMA Niranjana Swain. The webinar was highly appreciated by the participants.

The members are also urged to participate wholeheartedly in the “CMA Tax Volunteer Scheme” and provide their inputs on the proposed changes suggested on the new Income Tax Act, 1961. The last date of submission is 31.10.2024.

Admissions to the Taxation Courses has also commenced. The details can be reached at: <https://eicmai.in/OCMAC/TRD/TRD.aspx>. The courses are:

- (i) Certificate Course on GST (Batch – 17)
- (ii) Advanced Certificate Course on GST (Batch – 13)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 10)
- (iv) Certificate Course on International Trade (Batch – 7)
- (v) Certificate Course on TDS (Batch – 13)
- (vi) Certificate Course on Filing of Returns (Batch – 13) and
- (vii) Advanced Course on Income Tax Assessment & Appeals (Batch – 10)

I wish all the best to Team TRD for their efforts. The contributions and guidance from the Resource Persons are acknowledged and appreciated.

CMA Rajendra Singh Bhati

Chairman – Direct Taxation Committee

The Institute of Cost Accountants of India

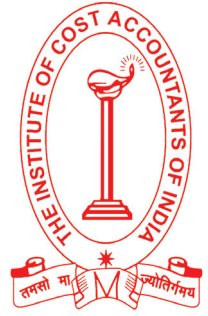
02.11.2024



Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee



Let this Diwali illuminate your life with new hope and happiness. Wishing you a Diwali that is as bright and joyous as the twinkling lights all around. Happy Diwali 2024!

On the IDT side the CBIC has issued the following notifications/ circulars have been issued to give effect to the recommendations made in the 54th GST Council meeting held on 9 September 2024:

- Changes the applicable GST rate on supply of specified goods and services;
- Notify the due date for making payment under the Amnesty Scheme (Section 128A of the Central Goods and Services Tax Act, 2024 (CGST Act));
- Notify the special procedure for rectification of order pursuant to the retrospective introduction of Sections 16(5) and 16(6) of the CGST Act;
- Waives late fees for delayed filing of Form GSTR-7 (Return for tax deducted at source);
- Imposing GST liability under reverse charge mechanism in respect of procurement of metal scrap from unregistered persons; and
- Imposes TDS liability on a registered person procuring metal scrap from another registered person. Further, GSTN has issued an advisory stipulating that the GST portal has been updated to enable compliance of registration through Form GST REG-07.
- CBIC has also issued various Circulars inter alia providing for regularisation of GST liability for the past period as well as interpreting the scope of the phrase 'regularised on as is where is' basis and also clarifying various issues pertaining to extension of time limit to claim input tax credit for the period July 2017 to March 2021 under the newly introduced sections 16(5) and 16(6) as well as the scheme for waiver of interest and penalty on payment of full tax amount as per notice/statement for the period July 2017 to March 2020 under newly introduced section 128A of the CGST Act.

On the department side and important webinar has been conducted on 18.10.2024 addressing the topic, 'Unlocking Input Tax Credit Eligibility under GST: Your Guide to Maximise Benefits'. The faculty for the session was CMA Vishwanath Bhat. The webinar was participated by huge number of participants and the webinar has been widely appreciated.

Also, admissions to the Taxation Courses has also commenced. The details can be reached at: <https://eicmai.in/OCMAC/TRD/TRD.aspx>. The courses are:

- Certificate Course on GST (Batch – 17)
- Advanced Certificate Course on GST (Batch – 13)
- Advanced Course on GST Audit and Assessment Procedure (Batch – 10)
- Certificate Course on International Trade (Batch – 7)
- Certificate Course on TDS (Batch – 13)
- Certificate Course on Filing of Returns (Batch – 13) and
- Advanced Course on Income Tax Assessment & Appeals (Batch – 10)

The classes for GST Course for college and university students have commenced at Seshadripuram Degree College, Mysuru (Batch 2) from 14.10.2024 with a strength of 75 candidates. The classes for this course in continued at St. Anns College, Hyderabad (Batch 2).

The publication of Tax Bulletin and conduct of quiz is done systematically. I wish the best regards to the department and the Resource Persons for their efforts.

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

02.11.2024

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C O N T E N T S



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.dd2@icmai.in

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Invoice Management System (IMS): A Comprehensive Overview for Tax Bulletin



CMA Bhogavalli Mallikarjuna Gupta

Co-opted Member Indirect Taxation Committee

The Invoice Management System (IMS) represents a transformative upgrade to the Goods and Services Tax (GST) landscape, introducing significant enhancements to how recipient taxpayers handle invoices. This comprehensive document provides an exhaustive overview of the IMS, aiming to deliver a human-friendly and practical understanding of the system's features, benefits, and functionalities in managing Input Tax Credit (ITC) claims efficiently. This overview also incorporates frequently asked questions (FAQs) to address common queries and concerns taxpayers may have.

Introduction to the Invoice Management System (IMS)

The GST ecosystem has undergone substantial changes to ensure smoother compliance and eliminate tax cascading. The IMS is the latest addition to the GST framework, allowing recipient taxpayers to directly accept, reject, or keep invoices pending. This revolutionary feature supports accurate reconciliation and enhances efficiency, ultimately empowering taxpayers with greater control over their compliance obligations.

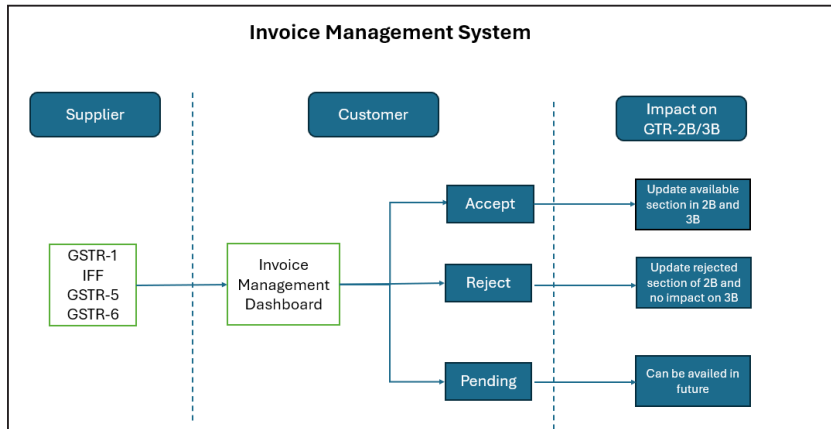
Why IMS is Necessary

In the previous tax regime, taxpayers often faced issues like double taxation due to mismatches in tax credits. The GST sought to address these challenges with an automated matching process to prevent undue ITC claims, but this was not fully implemented initially. Over time, several changes in GST laws have added complexities to claiming ITC, prompting the introduction of IMS to streamline these processes.

How IMS Works

The IMS dashboard, accessible via the GST portal, allows taxpayers to take the following actions on invoices reported by suppliers in GSTR-1/1A/IFF:

1. Accept - Accepted invoices form part of GSTR-2B and ITC is claimed accordingly in GSTR-3B.
2. Reject - Rejected invoices are excluded from ITC eligibility, helping prevent incorrect claims.
3. Pending - Taxpayers can mark invoices as pending to address discrepancies later, before the prescribed deadlines under Section 16(4) of the CGST Act, 2017.



If no action is taken by the recipient, the system will automatically treat the invoices as “deemed accepted” and they will be included in GSTR-2B. This feature provides much-needed flexibility, especially for smaller businesses that may lack resources to scrutinize every invoice immediately.

Features and Functionalities of IMS

1. Invoice Tracking and Actions

- ▶ All invoices saved by suppliers in GSTR-1/IFF or GSTR-1A will appear in the recipient’s IMS dashboard, where they can accept, reject, or keep an invoice pending.
- ▶ **Use Case:** A taxpayer finds discrepancies in an invoice and marks it as pending, communicating with the supplier for resolution before finalizing the claim.

2. Amendments and Corrections

- ▶ If suppliers amend an invoice in GSTR-1 before filing, the amended invoice will replace the original in IMS. Actions taken on the original invoice are reset, giving the recipient an opportunity to review again.
- ▶ **Example Use Case:** If an error is detected post-acceptance, the amendment process ensures the corrected invoice replaces the original without complications.

3. Supplier Visibility

- ▶ Suppliers have visibility over recipient actions in IMS, enabling them to address rejections promptly.
- ▶ **Example Use Case:** A supplier notices a rejection and amends the invoice, avoiding ITC losses for the recipient.

4. Impact on GSTR-2B and GSTR-3B

- ▶ **Sequential Generation:** GSTR-2B is generated only after the filing of GSTR-3B for the previous period. Any changes made to invoices after GSTR-2B is generated require the taxpayer to recompute their GSTR-2B before filing GSTR-3B.
- ▶ **Recomputation:** IMS allows recomputation of GSTR-2B to ensure accurate ITC claims.

Frequently Asked Questions (FAQs) about IMS

To provide more clarity, here are some of the commonly asked questions about IMS, along with their answers:

1. What is the Invoice Management System (IMS)?

- ▶ IMS is a facility in the GST system where recipient taxpayers can accept, reject, or keep invoices pending. This helps taxpayers manage



their Input Tax Credit (ITC) efficiently by interacting with invoices reported by suppliers in GSTR-1/1A/IFF.

2. How can I access IMS?

- ▶ IMS can be accessed via the GST Portal through the following path: Dashboard > Services > Returns > Invoice Management System (IMS) Dashboard.

3. When was IMS launched?

- ▶ IMS was launched on the GST Portal from 1st October 2024, and taxpayers could begin taking actions on invoices from 14th October 2024 onwards.

4. What actions can be taken on IMS?

- ▶ Taxpayers can take actions such as Accept, Reject, or Pending on invoices available in IMS. By default, invoices flow into the “No Action” category, and if left unchanged, they are deemed accepted.

5. Is it mandatory to act on all invoices in IMS?

- ▶ No, it is not mandatory to act on all invoices in IMS. If no action is taken, the invoice is deemed accepted and included in GSTR-2B.

6. Can actions on invoices be taken multiple times?

- ▶ Yes, taxpayers can take actions multiple times on an invoice before filing GSTR-3B. The latest action overwrites the previous one.

7. How do amendments affect actions taken in IMS?

- ▶ If an invoice is amended by the supplier before filing GSTR-1, the amended invoice will replace the original in the IMS dashboard, and any previous action taken by the recipient will be reset.

8. What happens to rejected invoices?

- ▶ Rejected invoices are excluded from the ITC calculation and do not flow into GSTR-3B. If

necessary, the supplier may amend or reissue the invoice.

9. What happens to pending invoices in IMS?

- ▶ Pending invoices are not included in GSTR-2B for the current month and remain available in the IMS for future review. Taxpayers must act on these invoices before deadlines prescribed by Section 16(4) of the CGST Act, 2017.

10. How are credit notes handled in IMS?

- ▶ Credit notes require specific actions and cannot be kept pending indefinitely. Depending on previous actions taken, the system may automatically accept or require rejection of the credit note.

11. What happens to invoices after filing GSTR-3B?

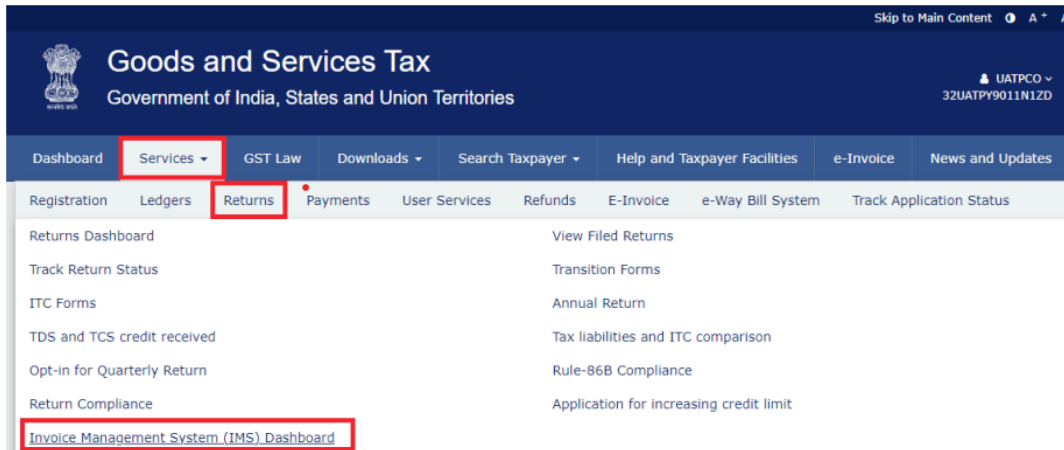
- ▶ Once GSTR-3B is filed, any accepted or rejected invoices for that period are removed from IMS. Pending invoices remain until acted upon or until the deadline passes.

Handling Special Cases in IMS

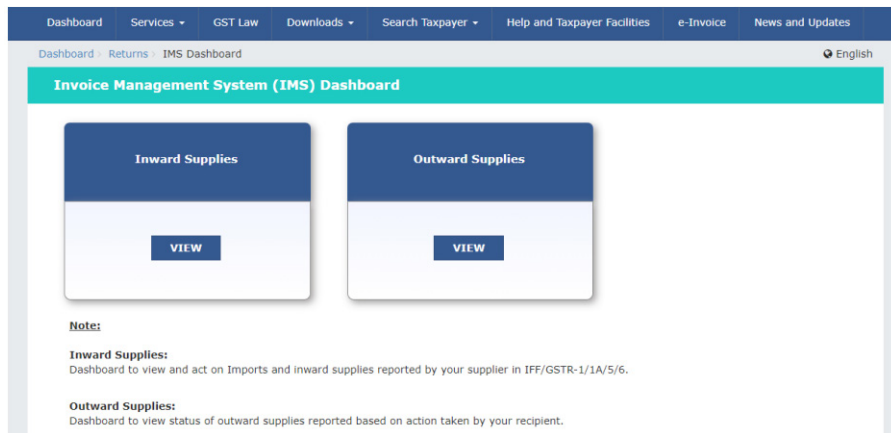
- Credit Notes:** Specific handling is required for upward or downward amendments of credit notes, depending on prior actions. This ensures the taxpayer cannot keep such credit notes pending indefinitely.
- Reverse Charge Mechanism (RCM):** RCM invoices are not part of IMS but are directly integrated into GSTR-2B, ensuring consistent handling of these specialized transactions.

Step-by-Step Usage of IMS

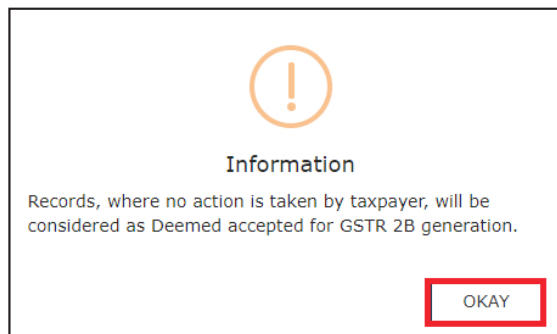
- Accessing IMS:** Log into the GST portal and navigate through “Services > Returns > Invoice Management System (IMS)”. Here, taxpayers can view inward and outward supplies.



Clicking on IMS dashboard link will open the following page



Clicking on View for Inward Supplies will open this prompt and user has to click ok



2. Taking Actions: Taxpayers can individually or in bulk accept, reject, or mark invoices as pending. Bulk actions are particularly useful for large companies managing many transactions.

For inward invoices it will open this page and the users can take action on it accordingly



S.No.	Heading	Number of Records			
		No Action	Accepted	Rejected	Pending
I	B2B - Invoices	2	5	5	4
II	B2B - Invoices (Amendments)	1	0	3	7
III	B2B - Debit Notes	4	8	4	0
IV	B2B - Debit Notes (Amendments)	6	0	4	1
V	B2B - Credit Notes	4	0	16	0
VI	B2B - Credit Notes (Amendments)	1	4	4	0
VII	Eco [9(5)] Invoices	4	4	4	4
VIII	Eco [9(5)] Invoices (Amendments)	2	3	3	4

On clicking of B2B-Invoices hyperlink all the invoices issued by the suppliers will be shown on the page. A ‘search’ facility is also provided through QBE, Query by Example where the taxpayer can enter keywords in the Search field to identify the invoice or any other relevant field where an action is required to be taken.

S.No.	GSTIN of Supplier *	Trade/ Legal Name *	Invoice Number *	Invoice Type *	Accept	Reject	Pending	Status
1	32UATPY9011M1ZF	GSTN	M1b1	Regular				Accept
2	32UATPY9011M1ZF	GSTN	M1b2	Regular				Accept
3	32UATPY9011M1ZF	GSTN	M1b3	Regular				Accept
4	32UATPY9011M1ZF	GSTN	M1b4	Regular				Reject
5	32UATPY9011M1ZF	GSTN	M2b1	Deemed Export				Reject
6	32UATPY9011M1ZF	GSTN	M2b2	Regular				Accept
7	32UATPY9011M1ZF	GSTN	M2b3	Regular				Pending
8	32UATPY9011M1ZF	GSTN	M2b4	Deemed Export				Reject
9	32UATPY9011M1ZF	GSTN	M3b1	Regular				Pending
10	32UATPY9011M1ZF	GSTN	M3b2	Deemed Export				Accept

3. **Excel Download and Filtering:** IMS provides Excel download functionality, allowing taxpayers to download their invoice records for offline review. This feature enhances data management and helps in reconciling discrepancies more easily.

S.No.	Heading	Number of Records			
		No Action	Accepted	Rejected	Pending
I	B2B - Invoices	2	5	5	4
II	B2B - Invoices (Amendments)	1	0	3	7
III	B2B - Debit Notes	4	8	4	0
IV	B2B - Debit Notes (Amendments)	6	0	4	1
V	B2B - Credit Notes	4	0	16	0
VI	B2B - Credit Notes (Amendments)	1	4	4	0
VII	Eco [9(S)] Invoices	4	4	4	4
VIII	Eco [9(S)] Invoices (Amendments)	2	3	3	4

4. Recomputation: After taking action on invoices, taxpayers must recompute GSTR-2B before filing GSTR-3B, especially if changes were made after the draft GSTR-2B was generated.

Conclusion: Enhancing GST Compliance with IMS

The IMS aims to enhance transparency, accuracy, and convenience for both taxpayers and suppliers. By offering a flexible mechanism to accept, reject, or postpone actions on invoices, IMS minimizes compliance burdens and ensures a streamlined ITC claiming process. However, despite its benefits, taxpayers are encouraged to consider their business-specific needs before fully adopting IMS functionalities, as it is not mandatory under current GST provisions.

Taxpayers must remain vigilant, using IMS as a tool to bolster their compliance strategy while continuing to maintain thorough record-keeping practices. The GST ecosystem is evolving, and the IMS is a promising step toward achieving a more efficient and accurate compliance environment.

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Merits and Demerits on post amendment effect in respect of Long term Capital Gain for the sale of immovable property for and on behalf of an Assessee



Adv Tapas Majumder

Tax Practitioner & Advocate

Every Budget is important for its specific amendments which at times is liberal and at times is restrictive. Thrusting such laws to the assessee it becomes universally applicable to all categories of assessee even certain limited exceptions may appear. In light of this ideology the global changes in respect of the computation of Long term Capital Gain grossly thrusts to some assessee specially for the persons having long time holder where the basic ideology of the compensatory Clause in the pre amendment stage in terms of the indexation which was invited by virtue of the steps to be adopted for the neutralisation effect of the scale of price index and on post facto amendment the deletion of indexation substantially reducing the tax rate of the LTCG creates the usual benefits logically generated to the earner having period of holding is below five years. However it is a fact that to neutralize the effect of indexation the rate of LTCG has become grossly reduced, in order to jeopardies the indexation under the changed phenomenon, but for person having very long term holder of the immovable property it's become adversely effected strictly restricted to such persons only otherwise mostly it accrues the positive benefits to the assessee. In order to digest such feelings let us clear about the manner of the invitation of indexation from the ancient stage under the Income Tax Act,1961 prior to this amendment thereon.

Indexation means adjusting the returns for inflation. For example if returns are 15% and inflation is 5%, you are taxed only for the 10% returns. It is offered from the earlier budget that the 10% long term capital gains introduced on equity funds having without indexation benefits. This may be looked as a disadvantage but not so much since the tax rate itself is low. Take the case of debt funds where the long term capital gains tax rate is higher at 20% but indexation benefits are allowed. Net indexation benefits are definitely good but may not be felt much when tax rates are low.

Any profit derived from a capital asset will be classified as Capital Gains for income tax purposes and will be subject to capital gains tax. All lands excluding the agricultural land within certain parameters having agricultural operation thereon is categorised as a Capital Asset, and as its value appreciates, the owner can realise significant capital gains upon its sale. Nevertheless, it's worth noting that agricultural land in rural areas of India falls outside the definition of a Capital Asset. Consequently, no capital gains tax is applicable upon its sale of Agricultural land within the specific parameter. Let us understand how profits from sale of land will be taxed with indexation under the pre-budget memorandum and the present effect under the post budget memorandum w.e.f. 23.07.2024.

Case 1: for Long time holding

Particulars	Transactions till 22nd July 2024	From 23rd July 2024 onwards
Sale Price	50 lac	50 lac
Value adopted by the stamp duty authority	50 lac	52 lac
TDS @1% (applicable if any one of above is more than 50 lac)	Not Applicable	Applicable
Presuming Purchase cost in 2001-02	10 lac	10 lac
Whether Price indexation benefits applicable	Yes, PI is 363	No, NIL
Indexed cost of acquisition (10 lac/100 × 363)	36,30,000	10,00,000
LTCG	13,70,000	40,00,000
Tax Rate	20%	12.5%
Tax on LTCG	2,74,000	5,00,000

Case 2 for Short time holding

Particulars	Till 22nd July 2024	From 23rd July 2024 onwards
Sale Price	50 lac	50 lac
Value adopted by the stamp duty authority	50 lac	52 lac
TDS @1% (applicable if any one of above is more than 50 lac)	Not Applicable	Applicable
Presuming purchase cost in 2021-22	31.75 lac	31.75 lac
Whether Price indexation benefits applicable	Yes, PI is 363	No, NIL
Indexed cost of acquisition (31.75 lac/317 × 363)	36,35,725	10,00,000
Indexation for the F.Y. 2021-22 is 317		
LTCG	13,64,275	18,25,000
Tax Rate	20%	12.5%
Tax on LTCG	2,72,855	2,28,125

Hence it can be concluded that where the effect of the price index is not significant the LTCG tax will become beneficial to the assessee due the effect of the lower tax rate thereof. However when the effect of indexation is required to be neutralised due to the long-time holding of such assets, the amended provisions become costlier to the assessee.

In a nutshell the Finance Budget 2024 proposes the following amendments as under.

Finance Budget 2024 has proposed the following amendments effective from FY 2024-25:-

For classifying assets into long-term and short-term, there will only be two holding periods: 12 months and 24 months. The 36-month holding period has been removed.

The holding period for all listed securities is 12 months. All listed securities with a holding period exceeding 12 months are considered Long-Term. The holding period



for all other assets is 24 months. Thus, land held for a period of more than 24 months is considered long-term.

Short term capital gain on sale of land shall continue to attract tax at slab rates.

The tax on long-term capital gains on all assets is reduced from 20% to 12.5%. While on the other hand, the indexation benefit that previously was available on sale of long-term assets, has now been done away with.

However, sale of land and building made from 23rd July 2024 will attract a tax rate of 12.5% only without indexation benefit or a 20% tax rate with the indexation benefit at the option of taxpayer, if such property has been acquired before 23rd July, 2024. For sale of land and building acquired on or after 23rd July, 2024, the tax rate will be 12.5% without indexation. The impact of removing of the indexation benefit while calculating long-term capital gains (LTCG) tax on investments like real estate and gold is subjective and depends on factors such as asset returns and holding periods. As per rough calculation, higher returns from assets will benefit from the reduced tax rate, while lower returns will result in higher tax liability without the indexation benefit.

Hence it is a well appreciable fact that the rate of tax

has been over substantially decreased from 20% to 12.5% but for the sake of convenience the persons who are going to sell the immovable property purchased prior to more than decades mostly will suffer the price indexation effects where due the indexation tax will be required to be paid even having the gain becomes virtually negative. Even in consideration of the modified indexation keeping the base year in the F.Y. 2001- 02 as 100 and the same is gradually being increased and lastly in the F.Y. 2024- 25 till 22.07.2024 it is offered as 363. Therefore it's cleared that if the indexation is allowed the cost will automatically be increased to 3.63 time where the capital gain tax on post amendment is appearing as 12.5 from 20%. Therefore the proportion is appearing as 12.5/20 even not half at all. However the deduction for the investment are logically sustained and the assessee has to invest for the saving of tax 12.5% thereon. However to overcome such issue 8.33 time of tax is required for the investment which is nothing but locking up the purpose of the sale and as such even if the deductions for investments are sustained it will not become fruitful at all to the assessee. The tabulated deductions which are common both under pre and post regime are as under.

Section 54F	This exemption can be claimed when the proceeds from the sale of land are utilised to purchase a new house property
Section 54EC	This can be claimed when the proceeds are utilised to purchase certain notified bonds, such as Rural Electrification Corporation Limited or REC bonds, National Highway Authority of India or NHAI bonds, Power Finance Corporation Limited or PFC bonds, Indian Railway Finance Corporation Limited or IRFC bonds. These bonds are redeemable after 5 years. If such bonds are transferred to another person or converted back to money, then exempted capital gain shall become taxable in the year of such event.
Section 54B	This is claimed when the proceeds from the sale of urban agricultural land are invested towards the purchase of another agricultural land.
Section 54D	Capital gains which arise from the compulsory acquisition of land or building forming part of an industrial undertaking and the proceeds are invested in the acquisition of a property for setting up another industrial undertaking.
Section 54G	Exemption in respect of capital gains from transfer of assets in cases of shifting of industrial undertaking from urban areas to rural areas

Section 54GA

Exemption with respect to capital gains from transfer of assets in cases of shifting industrial undertaking from urban areas to special economic zones.

Hence from the face of this discussion it is now cleared that the mode of operandi for the investment in infrastructure areas is at least in the initial amendment year become negative in nature as the required investment to save the tax on LTCG will be at least 8.33 time of the quantum of tax and as such the same will off course become attractive when the rate of LTCG for the sale of immovable property will be increased from the existing rate of 12.5% and if in near future will the rate of LTCG be increased the assessee will ultimately loose the structure of that indexation which was availed even in some earlier years also and in that effect the discrimination of payment of taxes on post facto amendment will prevail. So the twin opposite directions are appearing where to sustain the effect of the indexation the rate of tax of LTCG cannot be higher than the existing rate besides when the rate is lower the attractions of investment to save such tax will not be globally fruitful at all. And from the face of such amendment the intentions of the government may construe to collect more tax than to increase the investments in immovable property.



PRESS RELEASE

DIRECT TAX

CBDT Notifies Amendments in Income-tax Rules for Ease in Claiming Credit for TCS Collected/TDS Deducted for Salaried Employees and Enabling claiming TCS Credit of Minors in the Hands of Parents

Posted On: 17 OCT 2024 2:55PM by PIB Delhi

Central Board of Direct Taxes (CBDT) has notified amendments in income-tax rules for ease in claiming credit for TCS collected/TDS deducted for salaried employees and enabling claiming TCS credit of minors in the hands of parents. Sub-section (2B) of Section 192 of the Income-tax Act, 1961 ('the Act') was amended vide the Finance (No. 2) Act, 2024 (FA (No. 2)) to include any tax deducted or collected at source under the provisions of Chapter XVII-B or Chapter XVII-BB, as applicable, for the purpose of making tax deductions in the case of salaried employees.

Vide CBDT Notification No. 112/2024 dated 15.10.2024, the Income-tax Rules, 1962 ('the Rules') have been amended, introducing Form No. 12BAA as the prescribed statement of particulars required under sub-section (2B) of Section 192 of the Act. Employees must provide these particulars to their employers, who are responsible for making payments under sub-section (1) of Section 192. The employer, in turn, shall deduct TDS on salary after taking into account the furnished particulars.

Further, sub-section (4) of Section 206C of the Act was amended vide FA (No. 2) to allow the credit of TCS to a person other than the collectee—such as a parent in the case of a minor collectee—when the minor's income is clubbed with that of the parent. Accordingly Vide CBDT Notification No. 114/2024 dated 16.10.2024

Rule 37-I of the Rules has been amended to allow credit of tax collected at Source to a person other than the collectee, in whose hands the income of the collectee is assessable.

The said notifications are available at www.incometaxindia.gov.in

CBDT issues Revised Guidelines for compounding offences under the Income-tax Act, 1961

Guidelines will reduce complexities arising out of existing multiple guidelines, simplify the compounding procedure and lower the compounding charges

Posted On: 17 OCT 2024 9:02PM by PIB Delhi

In conformity with the Finance Minister's budget announcement on simplification and rationalization of compounding procedure, CBDT has issued Revised Guidelines for Compounding of offences under the Income-tax Act, 1961 (the 'Act') on 17.10.2024.

The revised guidelines supersede all existing guidelines on the subject and would apply to pending as well as new applications, from the date of its issue. The guidelines are expected to facilitate the stakeholders by reducing complexities arising out of existing multiple guidelines, simplifying the compounding procedure and lowering the compounding charges.

The guidelines have been simplified inter-alia by eliminating the categorization of offences, removing the limit on number of occasions for filing applications, allowing fresh application upon curing of defects which was not permissible under earlier guidelines, allowing compounding of offences under section 275A and 276B of the Act, removing the existing time limit for filing

application viz 36 months from the date of filing of complaint, etc.

To facilitate compounding of offences by companies and HUFs, the requirement of main accused filing the application has been dispensed with. The offences of the main accused as well as any or all co-accused can be compounded on payment of relevant compounding charges by the main accused and/or any of the co-accused, under the revised guidelines.

The compounding charges have also been rationalized by abolishing interest chargeable on delayed payment of compounding charges, reducing rates for various offences such as for TDS defaults, multiple rates of 2%, 3% and 5% have been reduced to single rate of 1.5% per month and basis for calculation of compounding charges for non-filing of return has been simplified. Other simplification measures include removal of charge of separate compounding fee from co-accused.

The revised guidelines are an additional step towards simplification of procedures aimed at promoting ease of compliance.

The revised Guidelines for Compounding of offences dated 17.10.2024 are available on <https://www.incometaxindia.gov.in>.

CBDT extends due date for furnishing Return of Income for the Assessment Year 2024-25 under the Income-tax Act, 1961 (the Act) to 15th November, 2024

Posted On: 26 OCT 2024 11:56AM by PIB Delhi

The Central Board of Direct Taxes (CBDT) has extended the due date of furnishing of Return of Income under sub-Section (1) of Section 139 of the Act for the Assessment Year 2024-25, which is 31st October 2024 in the case of assessee referred in clause (a) of Explanation 2 to sub-Section (1) of Section 139 of the Act, to 15th November 2024.

CBDT Circular No.13/2024 in F.No.225/205/2024/ITA-II dated 26.10.2024 is issued. The said Circular is available on www.incometaxindia.gov.in.

CBDT notifies Tolerance Range for Transfer Pricing for A.Y 2024-25 as per proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962

Notification of tolerance range shall provide certainty to taxpayers and reduce the risk perception associated with pricing of a transaction in transfer pricing

Posted On: 29 OCT 2024 1:23PM by PIB Delhi

The Central Board of Direct Taxes (CBDT) has issued notification no. 116/2024 dated October 18, 2024 notifying the tolerance range for AY 2024-25. The notification of tolerance range shall provide certainty to taxpayers and reduce the risk perception associated with pricing of a transaction in transfer pricing.

Proviso to sub-rule(7) of rule 10CA sub-rule(7) provides that, “if the variation between the arm’s length price so determined at which the international transaction or specified domestic transaction has actually been undertaken does not exceed such percentage not exceeding three percent of the latter, as may be notified by the Central Government in the Official Gazette in this behalf, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm’s length price.”

The tolerance range for transfer pricing is as follows:

- a. The tolerance ranges shall be 1% for transactions in the nature of “wholesale trading” and 3% for others, respectively, as notified last year and
- b. The term ‘wholesale trading’, shall be defined as an international transaction or specified domestic transaction of trading in goods which fulfil all the following conditions:
 - i. Purchase cost of finished goods is 80% or more of the total cost pertaining to such trading activities; and
 - ii. Average monthly closing inventory of goods is 10% or less of sales pertaining to such trading activities.



NOTIFICATIONS

INDIRECT TAX

Customs (Tariff)

Notification No. 46/2024-Customs

New Delhi, the 22nd October, 2024

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 27/2011-Customs, dated the 1st March, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 153(E), dated the 1st March, 2011, namely :-

In the said notification, in the TABLE,-

- I. against S. No. 6A., in column (4), for the entry, the entry "nil" shall be substituted;
 - II. against S. No. 6B., in column (4), for the entry, the entry "nil" shall be substituted;
 - III. against S. No. 6C., in column (4), for the entry, the entry "nil" shall be substituted.
- 2 This notification shall come into force with immediate effect.

[F. No. 190354/167/2024-TRU]

Customs (Non - Tariff)

Notification No. 67/2024-Customs (N.T.)

New Delhi, the 18th October, 2024

S.O. (E).- In exercise of the powers conferred by clause (a) of sub-section (1) of the section 7 of the Customs

Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in the Notification No. 62/1994-Customs (N.T.) dated the 21st November, 1994 of the Government of India, Ministry of Finance (Department of Revenue), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number

S.O. 829 (E), dated the 21st November, 1994, namely:-

In the said notification in the Table, against serial number 8 relating to the State of Maharashtra, in column (3) and (4), after item (18) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
		(19) Yogayatan	Unloading of imported goods and the loading of export goods or any class of such goods.

[F.No. CBIC-50394/130/2022]

Notification No. 68/2024 - Customs (N.T.)

New Delhi, the 22nd October, 2024

G.S.R.(E).-In exercise of the powers conferred by sub-section (1) read with clause (ab) of sub-section (2) of section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following amendments in the Passenger Name Record Information Regulations, 2022 issued vide notification no. 67/2022-Customs (N.T.) of the Government of India in the Ministry of Finance (Department of Revenue). published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section

(i), vide number G.S.R. 621 (E), dated the 8th August, 2022, namely

1. Short title and commencement - (1) These regulations may be called the Passenger Name Record Information (First Amendment) Regulations, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Passenger Name Record Information Regulations, 2022, in regulation 5, in sub-regulation (4), for the words “departure time; or”, the words “departure time and” shall be substituted.

[F. No. CBIC-21/90/2022-INV-CUSTOMS-CBEC]

Notification No. 70/2024–Customs (N.T)

New Delhi, the 23rd October, 2024

G.S.R (E). – Whereas, the notification no. 50/2017-Customs, dated the 30th June, 2017 of the Government of India, Ministry of Finance, Department of Revenue (hereinafter referred to as the said notification) allowed duty free import of goods of the description “Rough diamonds (industrial or non-industrial)” falling within Chapter 71 as specified against serial number (S.No.) 345 of the said notification;

And whereas, the said notification was amended by notification no. 02/2022-Customs, dated the 1st February, 2022, allowing duty free import of goods of the description “Simply Sawn Diamonds” falling under the sub-heading or tariff Item “7102 21, 7102 3100” (hereinafter referred to as the said goods) by inserting serial number (S.No.) 345A, subject to condition number 110 that “If, the importer produces before the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, a certificate issued under Kimberly Process Certification Scheme (KPCS) certifying that the imported goods are diamonds, not further worked than simply sawn”, with effect from 2nd February, 2022;

And whereas, the Central Government is satisfied that a practice was generally prevalent regarding non-levy

of duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975), read with the notification no. 50/2017-Customs, dated the 30th June, 2017, as amended, on the said goods imported into India during the period from 1st July, 2017 to 1st February, 2022;

Now, therefore, in exercise of the powers conferred by section 28A of the Customs Act, 1962 (52 of 1962), the Central Government, hereby directs that the whole of the duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) read with the said notification, if any payable on the import of the said goods, during the period from 1st July, 2017 to 1st February, 2022, but for the said practice, shall not be required to be paid in respect of import of the said goods.

[No. 450/269/2022-CusIV]

Central Excise (Tariff)

Notification No. 26/2024-Central Excise

New Delhi, the 24th October, 2024.

G.S.R (E). - In exercise of the powers conferred by section 3C of the Central Excise

Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the Fourth Schedule to the said Act, namely:-

In the said Act, in the Fourth Schedule, under the heading “MINERAL PRODUCTS”, in Chapter 27,-

- (i) for the SUPPLEMENTARY NOTES, the following Supplementary Notes shall be substituted, namely:-

‘Supplementary Notes:

1. In this Chapter, reference to any standard of the Bureau of Indian Standards refers to the last published version of that standard.

Illustration: IS 1459 refers to IS 1459: 2018 and not to IS 1459: 1974.

2. For the purposes of tariff item 2710 19 33, the



term “Blended Aviation turbine fuel” means any Aviation turbine fuel containing by weight 70% or more of Petroleum Oils or Oils obtained from Bituminous Minerals, blended with Synthesized Hydrocarbons conforming to Indian Standards Specification of Bureau of Indian Standards IS 17081:2019;”;

- (ii) in the table, under the sub-heading 2710 19, after tariff item 2710 19 32 and the entries

relating thereto, the following shall be inserted, namely:—

“2710 19 33	----	Blended Aviation turbine fuel	kg.	14%”.
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2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. CBIC-110267/42/2024-CX-VIII SECTION-CBEC]

DIRECT TAX

Notification [No. 114/2024/F. No. 370142/21/2024-TPL

New Delhi, the 16th October, 2024

G.S.R. 645(E).—In exercise of the powers conferred by section 295 read with section 206C of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Ninth Amendment) Rules, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962,—
 - (a) in rule 31AA, in sub-rule (4),—
 - (i) in clause (vi),—
 - (A) in sub-clause (b), for the words “fourth proviso”, the words “fifth proviso” shall be substituted;
 - (B) in sub-clause (c), for the words “fifth proviso”, the words “sixth proviso” shall be substituted;
 - (ii) in clause (vii), for the word, figures and letter “section 206C.” occurring at the end, the word, figures and letter “section 206C;” shall be substituted;
 - (iii) after clause (vii), the following clause shall be inserted, namely:—

“(viii) furnish particulars of amount received or debited on which tax was not collected or tax was collected at a lower rate in view of any notification issued under sub-section (12) of section 206C.”;

- (b) in rule 37-I,—
- (i) in sub-rule (1), after the words “has been collected”, the brackets and words “(hereinafter referred to as the collectee)” shall be inserted;
 - (ii) after sub-rule (1), the following sub-rule shall be inserted, namely: —

“(1A) (a) Where under any provisions of the Act, the income of the collectee is assessable in the hands of any person other than the collectee, the credit for the tax collected at source, shall be given to such other person and not to the collectee:

Provided that the collectee shall file a declaration with the collector and the collector shall report the tax collection in the name of the other person in the information relating to collection of tax referred to in sub-rule (1).

- (b) The declaration filed by the collectee under the proviso to clause (a) shall contain the name, address, permanent account number of the person to whom credit for the tax collectible at source is to be given, amount of payment in relation to which credit is to be given and reasons for giving credit to such person.

- (c) The collector shall issue the certificate for collection of tax at source under sub-section (3) of section 206C of the Act, in the name of the person in whose name credit is shown in the information relating to collection of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.”;
- (c) in Form No. 27EQ, in the Annexure, after Verification, in the Notes, after Note 8, the following Note shall be inserted, namely:—
‘8A. Write “J” if no collection or lower collection is in view of notification issued under sub-section (12) of section 206C.’.

Notification No. 116/2024/F. No. 500/1/2014-APA-II

New Delhi, the 18th October, 2024

INCOME-TAX

S.O. 4571(E).—In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961)(hereafter

referred to as the said Act) read with the proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm’s length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed (i) one per cent. of the latter in respect of wholesale trading; and (ii) three per cent. of the latter in all other cases — the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm’s length price for the assessment year 2024-2025.

Explanation.- For the purposes of this notification, “wholesale trading” means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

- a. purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and
- b. average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.



CIRCULARS

INDIRECT TAX

GST

Circular No. 238/32/2024-GST

F. No. CBIC-20001/6/2024-GST

New Delhi, dated the 15th October, 2024

Subject: Clarification of various doubts related to Section 128A of the CGST Act, 2017.

Based on the recommendations of the GST Council made in its 53rd meeting, Section 128A has been inserted in the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') with effect from 01.11.2024 to provide for waiver of interest or penalty or both, relating to demands under section 73 of the CGST Act pertaining to Financial Years 2017-18, 2018-19 and 2019-20, subject to certain conditions.

1.2 Subsequently, based on the recommendations of the GST Council made in its 54th meeting, Rule 164 has been inserted in Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') with effect from 01.11.2024 vide notification No.20/2024- Central tax dated 8th October 2024, providing for procedure and conditions for closure of proceedings under section 128A of CGST Act.

1.3 Further, vide notification No. 21/2024-Central tax dated 8th October 2024, 31.03.2025 has been notified under sub-section (1) of section 128A of CGST Act as the date on or before which the full payment of tax demanded in the notice/ statement/ order needs to be made by the taxpayer in order to avail the benefit of waiver of interest or penalty or both under the said section. Also, for cases where the application is made as per the first proviso to the sub-section

(1) of the section 128A of CGST Act, the date on or

before which the full payment of tax demanded in the order issued by the proper officer redetermining the tax under section 73 of CSGT Act needs to be made by the taxpayer, has been notified as six months from the date of issuance of such order by the proper officer redetermining the tax under section 73 of CGST Act.

- 2.1 Various doubts have been raised by the trade and the field formations in respect of implementation of provisions of Section 128A of the CGST Act, relating to waiver of interest or penalty or both in respect of demands under section 73 of the CGST Act pertaining to Financial Years 2017-18, 2018-19 and 2019-20.
- 2.2 In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the CGST Act, hereby issues the following clarifications and guidelines.
- 2.3 Unless otherwise specified, all the sections mentioned in this circular refer to sections of the CGST Act and all the rules mentioned herein refer to the rules of CGST Rules.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003243/ENG/Circulars>

Circular No. 237/31/2024-GST

F. No. CBIC-20001/6/2024-GST

New Delhi, dated the 15th October, 2024

Subject: Clarifying the issues regarding implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017-reg.



Reference is invited to sub-section (5) and sub-section (6) of section 16 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) inserted in section 16 of the CGST Act, with effect from the 1st day of July, 2017, vide section 118 of the Finance (No. 2) Act, 2024, whereby the time limit to avail input

tax credit under provisions of sub-section (4) of section 16 of CGST Act has been retrospectively extended in certain specified cases.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003242/ENG/Circulars>

DIRECT TAX

Circular No.13/2024

F. No. 225/205/2024JTA-II

New Delhi, dated 26th October, 2024

Subject: - Extension of due date for furnishing return of income for the Assessment Year 2024-25- reg.

The Central Board of Direct Taxes (CBDT), in exercise of its powers under section 119 of the Income-tax Act, 1961 ('the Act'), extends the due date of furnishing of Return of Income under sub-section (1) of section 139 of the Act for the Assessment Year 2024-25 in the case of assessee referred to in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, which is 31st October, 2024 to 15th November, 2024.



JUDGEMENT

INDIRECT TAX

Rule 96(10) is ultra vires to Section 16 of IGST Act and unenforceable on account of being manifestly arbitrary: HC

Facts of the case - Vinayaka Cashew Company v. Union of India - [2024] (Kerala)

In the instant case, the petitioner challenged the validity of Rule 96(10) of the CGST Rules, 2017. The Rule 96(10) was inserted with effect from 23-10-2017 by Notification No. 53/2018-Central Tax, dated 9-10-2018. It provided that persons claiming a refund of IGST on the export of goods or services, should not have received supplies on which the benefit of certain notifications was availed. However, the concept of zero-rated supply in the provisions of Section 16 of the IGST Act, 2017, indicate that there is to be no export of taxes and on the goods being exported the exporter is entitled to a refund of the IGST paid on the export of goods.

Decision of the case :

- The High Court noted that Section 16 of the Integrated Goods and Services Tax Act, 2017 does not impose any restriction on the right of the exporter to claim a refund of IGST paid on the export of goods or tax paid on input services or input goods used in the export of goods or services. The Court also noted that the provisions of Rule 96(10) of CGST Rules have undergone a series of amendments and the Rule as it presently stands imposes certain restrictions in the matter of refund of IGST.
- Thus, the Court held that Rule 96(10) is ultra vires section 16 of the IGST Act and unenforceable on account of being manifestly arbitrary as it produces absurd results not intended by the legislature. The High Court also directed that any action that was initiated or had culminated in an order against the

petitioner on the basis of provisions contained in rule 96(10) would stand quashed.

HC directed Revenue to decide appeal expeditiously as assessee deposited entire GST amount demanded

Facts of the case - JTEKT India Ltd. v. Union of India - [2024] (Punjab & Haryana)

In the present case, the petitioner had preferred an appeal u/s 107 of the CGST Act, 2017. However, the same was not entertained by the department on the ground of non-payment of pre-deposit as envisaged under section 107 of the CGST Act.

The petitioner submitted that they had already deposited the entire amount demanded, though in dispute. Therefore, it cannot be said that they had to deposit the amount and an additional 10% in terms of section 107(6)(a) of the CGST Act.

Decision of the case :

- The High Court observed that neither the provisions of section 107(6)(a) nor of section 107(6)(b) of the CGST Act would be attracted in cases where the assessee deposits the entire amount while challenging or disputing the same. However, the same amount shall be treated to be sufficient for the purpose of hearing the appeal without insisting on pre-deposit.
- Therefore, the High Court held that the petitioner, having already deposited the entire amount, though in dispute, cannot be further asked to deposit the amount either in terms of sections 107(6)(a) or 107(6)(b) of the CGST Act. Accordingly, the writ petitions were allowed.

Summary order issued without detailed assessment order under Sec. 73 or 74 is void ab initio: HC

Facts of the case - Messrs Kisan Mouldings Ltd. v. Union of India - [2024] (Gujarat)

In the present case, the petitioner filed a writ petition before the Hon'ble High Court of Gujarat and challenged the summary order in Form GST DRC-07. The petitioner submitted that GST Department passed a summary order but the petitioner was not provided with any detailed order u/s 73 or 74 of the CGST Act, 2017. It was also pointed out that on the basis of such summary of order, the GST department initiated the recovery proceedings.

Decision of the case :

- The High Court noted that the GST authorities confirmed the absence of any detailed order on record corresponding to the impugned summary order. The High Court held that a summary order issued without accompanying detailed assessment order u/s 73 or 74 of the GST Act is void ab initio. Further, the High Court quashed the impugned summary order and set it aside. The Revenue was also directed to lift the attachment on the petitioner's bank accounts.

No additional interest on refund of IGST paid on ocean freight as ITC had already been availed and utilized: HC

Facts of the case - South India Krishna Oil and Fats (P.) Ltd. v. Assistant Commissioner of GST-Central Tax Central Excise - [2024] (Madras)

The petitioner, a supplier of goods, paid IGST on ocean freight under reverse charge mechanism. The tax was paid before the decision of the Supreme Court which held that the levy of IGST on such ocean freight was unconstitutional. After the said decision, the petitioner filed a refund claim for the tax paid on ocean freight along with interest from the date of payment of tax. The refund claim was duly processed but it filed writ petition to grant interest at 6% from the date of payment of tax to the Department.

Decision of the case :

- The Honorable High Court noted that the petitioner was liable to pay tax on the supplies and therefore the credit would have been utilized by the petitioner for discharging the tax liability of the petitioner. Although the petitioner shall not be held liable to pay tax on reverse charge basis but the refund interest is to be paid strictly under Sections 56 and 57 of the CGST Act.
- Therefore, the petitioner cannot claim any interest on the tax since the amount that was paid by the petitioner on ocean freight would have been availed as Input Tax Credit and utilized then and there. Therefore, the petitioner was not entitled to a refund claim, much less interest.

Order enhancing tax liability of assessee to be set aside for not following procedure under Sec. 107(11) of CGST Act: HC

Facts of the case - Hriday Kumar Das v. State of West Bengal - [2024] (Calcutta)

The appellant was aggrieved by the order passed by the Appellate Authority as it enhanced the tax liability without following the procedure under Section 107(11) of CGST Act, 2017. It filed writ petition against the order, and the Single Bench, while entertaining the writ petition, granted a stay of the proceedings subject to the payment of 10% balance amount of the disputed tax. It filed appeal against the condition of pre-deposit.

Decision of the case :

- The Court noted that the Appellate Authority was not justified in enhancing the tax liability payable by the appellant in an appeal filed by the assessee without following the procedure under Section 107(11) of the CGST Act, 2017. Therefore, the Court held that the order passed by the Appellate Authority to that extent was not tenable in law and liable to be set aside.
- However, the Court remanded the matter back to the adjudicating authority to consider matter afresh uninfluenced by previous findings and also to consider the effect of subsequent closing order for same tax period.



DIRECT TAX

Delhi HC upholds reassessment initiated by jurisdictional AO; distinguishes with Hexaware ruling

Facts of the case - T.K.S. Builders Pvt. Ltd. v. ITO - [2024] (Delhi)

The instant writ petition was filed questioning the validity of the reassessment action initiated under Section 148 by the Jurisdictional Assessing Officer (JAO). The question before the High Court was:

“Whether a notice issued by the JAO would be valid and compliant with the Faceless Scheme of Assessment, which had come to be adopted by virtue of Sections 144B and 151A?”

Decision of the case :

- The Delhi High Court observed that the provisions of the Faceless Reassessment Scheme 2022, supported by the extensive material presented by the respondents, bolsters the clear intent underlying each phase of the faceless assessment process. The scheme clearly contemplates the initial enquiry and formation of opinion to reassess being part of one defined process followed by actual assessment facelessly. It divides the reassessment process into two stages. When viewed in that light, it is manifest that it strikes a just balance between the obligation of the JAO to scrutinise information and the conduct of assessment itself through a faceless allocation.
- The functions of the JAO and NFAC are complementary and concurrent, as contemplated under the various schemes and statutory provisions. This balanced distribution underscores the legislative intent to create a seamless integration of traditional and faceless assessment mechanisms within a unified statutory framework.
- Section 144B, which provides for the faceless assessment, cannot be viewed as the solitary basis for the initiation of reassessment. The statute conceives various scenarios where the case of an individual assessee may be selected for examination and scrutiny based on information and material that falls into the hands of the Jurisdictional Assessing Officer (JAO) directly or is otherwise made available with or without the aid of the Risk Management System (RMS).
- The faceless system of assessment does not nullify the JAO’s role in conducting assessments. The Court held that the JAO retains powers that do not conflict with, but rather complement, the objectives of neutrality and efficiency. The faceless assessment scheme centralises processes under the Faceless Assessing Officer (FAO) to reduce direct interaction.
- However, this structure does not diminish the JAO’s authority. Instead, the JAO’s retained jurisdiction is vital for ensuring continuity and accountability, acting as a complementary element to the faceless assessment framework. The JAO’s retention of original jurisdiction provides a critical balance, ensuring that human oversight remains available within the faceless assessment structure when needed. Importantly, the Court highlighted that the JAO’s authority is not merely residual but an active, complementary role that reinforces the flexibility of the assessment system.
- In Hexaware Technologies [2024] 162 taxmann.com 225 (Bombay), the Bombay High Court ruled that the JAO lost jurisdiction to issue reassessment notices after the introduction of the Faceless E-Assessment Scheme 2022. The Court concluded that there could be no concurrent jurisdiction between the JAO and the FAO.
- However, the judgment did not refer to the notification dated August 13, 2020, which gave NFAC officers concurrent powers with the AO. The Delhi High Court disagreed with Hexaware Technologies, considering multiple information sources that could aid a JAO in determining if income escaped assessment.
- Accordingly, it was held that JAO could not be entirely stripped of the authority to assess or reassess solely due to the introduction of Section 144B and the Faceless Reassessment Scheme.

Interest earned on short-term deposits of funds received from Govt. funds is capital receipt: HC

Facts of the case - HLL BIOTECH Ltd. vs. Commissioner of Income-tax - [2024] (Kerala)[25-09-2024]

The assessee company was set up by the Ministry of Health and Family Welfare and was a wholly owned subsidiary of a Government enterprise. The Government of India sanctioned a certain amount to the assessee for setting up the Integrated Vaccine Complex, which was to be released in tranches.

Subsequently, the construction activities proceeded in a phased manner, and the assessee parked certain amounts, which were not immediately required for construction, in banks and in the holding company. The assessee earned interest from such short-term deposits, which were set off against the expenditure incurred for constructing the Integrated Vaccine Complex.

However, during the assessment proceedings, the Assessing Officer (AO) treated such interest as received from the investments and taxed under the head of "Income from Other Sources".

On appeal, CIT(A) and the Tribunal confirmed the AO's order. The aggrieved assessee filed an appeal before the Kerala High Court.

Decision of the case :

- The High Court held that if the funds invested were not surplus funds as such, and the funds and interest accrued thereon are inextricably linked to the setting up of the business and its use, including the interest income therefrom, then the "interest income" from such funds would be in the nature of capital receipts.
- In the instant case, it was of great significance to consider the nature of the amount received by the assessee from the Government of India and the purpose of its use. It was categorically mandated that the funds and income earned from the funds provided by the Government shall be used only for the purpose for which they were released. It was also clarified that any interest income from the said funds, as a consequence of bank deposits, shall also

be used only for the purpose of the project.

- Therefore, it was evident that the deposits and the income were inextricably linked with the setting up of the project. It was not in dispute that the setting up of the project was not over and was still in progress. The funds disbursed and utilised were stage-wise, and the portion of the funds kept in short-term deposits could not be termed as "surplus amounts," which could be utilised as per the wish and will of the company.
- Accordingly, the funds and the income derived therefrom were to be used exclusively for the setting of the project.

PCIT's approval of reassessment notice by merely writing 'Yes, I am satisfied' is not valid: HC

Facts of the case - Capital Broadways (P.) Ltd. vs. Income Tax Officer Ward 5(3) Delhi - [2024] (Delhi)[03-10-2024]

The assessee filed its return of income, which was processed under section 143(1), but no assessment order was passed. Subsequently, information was received from the Department's Investigation Wing about money laundering operations. The information contained in the report through their paper companies had provided accommodation entries to various beneficiaries. The assessee was also one of the beneficiaries of the accommodation entries received through three paper companies. Consequently, the impugned notice under section 148 was issued upon the assessee.

The assessee observed that the Principal Commissioner, who was the competent authority, had granted sanction without applying mind by merely endorsing his signatures on the file in a routine and mechanical manner by simply writing, "I am satisfied."

The aggrieved-assessee filed an instant writ petition before the Delhi High Court.

Decision of the case :

- The High Court held that Section 151(1) categorically provides that no notice shall be issued under Section 148 by the Assessing Officer (AO) after the expiry of the period of four years from



the end of the relevant assessment year unless the Principal Chief Commissioner or Commissioner or Principal Commissioner or Commissioner is satisfied on the reasons recorded by the AO that it is a fit case for the issue of such notice.

- In the present case, since reopening was beyond four years, it was for the Principal Commissioner to record satisfaction for reopening the assessment. The prescribed authority referred to in section 151 must be ‘satisfied’ on the reasons recorded by the AO that it is a fit case for the issuance of such notice. Therefore, the satisfaction of the prescribed authority was a sine qua non for a valid approval. The competent authority must apply its mind independently based on the material placed before it before granting the sanction.
- It was noted that the request for approval under section 151 in a printed format was placed before the Assistant Commissioner, who, according to his satisfaction, put the same before the Principal Commissioner. The Principal Commissioner approved it on the very same day. The satisfaction arrived at by the concerned Officer should be discernible from the sanction order passed under section 151. However, in the instant case, the approval order was bereft of any reason. There was no whisper of any material that may have weighed for the grant of approval.
- Even the bare minimum requirement of the approving authority having to indicate what the thought process was, was missing in the approval order. While elaborate reasons were not given, at least there had to be some indication that the approving authority has examined the material prior to granting approval.
- Mere appending the expression ‘Yes, I am satisfied’ says nothing. The entire exercise appeared to have been ritualistic and formal rather than meaningful, which should be the rationale for safeguarding an approval by a high ranking official. Reasons are the link between material placed on record and the conclusion reached by the authority in respect of an issue, since they help in discerning the manner in which the concerned authority reaches the conclusion.
- Mere repetition of the statute’s words, mere rubber stamping of the letter seeking sanction, or using

similar words like ‘Yes, I am satisfied’ will not satisfy the law’s requirement. Hence, the approval granted by the Principal Commissioner for issuance of notice under section 148 is not valid, and therefore, the impugned notice under section 148 cannot be sustained.

Assessee entitled to carry forward reduced MAT credit for payment of taxes under Vivad se Vishwas Scheme: HC

Facts of the case - Vapi Care Pharma (P.) Ltd. vs. Principal Commissioner of Income-tax - [2024] (Gujarat)

In the instant case, consequent to a search, an assessment order under section 143(3), read with section 153A, was passed, determining the assessed income. On appeal, the CIT(A) confirmed the addition on account of unaccounted sale proceeds received in cash. The order giving effect was passed, revising the total income.

Thereafter, the rectification order under section 154 was passed ascertaining the tax liability after giving credit under section 115JAA towards MAT Credit, being the difference between the tax payable under normal provision and tax payable under section 115JB. The Assessing Officer (AO) then levied penalty under section 271AAB(1)(c). The assessee, being aggrieved by the penalty order, preferred appeal before the CIT(A).

Subsequently, the Direct Tax Vivad Se Vishwas Scheme was introduced, and the assessee decided to settle its pending appeals by taking benefit of the same and filed Forms No. 1 and 2 under the Scheme. In Part A of the said Form 1, the assessee opted not to pay the tax and filled necessary details about the reduction in the MAT Credit in Schedule D of the said Form 1 and claimed a refund on account of pre-payment of taxes. By issuing Form No.3, AO determined the amount of tax payable under the Scheme. The assessee preferred an application to rectify Form No.3, which was rejected.

Aggrieved by the order, the assessee filed a writ petition before the Gujarat High Court.

Decision of the case :

- The High Court held that on perusing Rule 10 of the DTVSV Rules, it was clear that the assessee was entitled to carry forward the reduced MAT credit

for payment of the taxes under the Scheme as the assessee has the option. This is further fortified by the answer to Question 53 of the FAQ as per Circular No. 9/2020 issued by the CBDT.

- On perusal of the remarks made by the revenue in Form 3, it was apparent that the revenue, though, has taken into consideration that the AO permitted the carry forward of the MAT credit. Still, while calculating the amount payable by the assessee in Form 3 with regard to tax arrears and the amount payable under DTVSV, the revenue has not taken into consideration the order passed by the AO for permitting the assessee to carry forward the MAT credit being the difference between tax payable under the normal provision of tax payable under section 115JB. Thus, the assessee was entitled to reduce the MAT credit for not paying any amount otherwise payable as calculated in Form No. 3.
- Accordingly, impugned Form No. 3 and the rectification order were required to be quashed and set aside by remanding the matter back to the revenue to re-calculate the refund entitlement in accordance with the Scheme and the Rules thereunder.

Interest on purchase of securities for broken period deductible u/s 37 if securities are treated as stock-in-trade: SC

Facts of the case - Bank of Rajasthan Ltd. vs. Commissioner of Income-tax - [2024] (SC)[16-10-2024]

The main issue in the instant appeal was about the treatment to be given to broken period interest. The question is whether a deduction of the broken period interest can be claimed.

Decision of the case :

- The Supreme Court held that the guidelines dated 16th October 2000 issued by the RBI categorise the government securities into the following three categories: (a) Held to Maturity (HTM); (b) Available for Sale (AFS); and (c) Held for Trading (HFT).
- As far as AFS and HFT are concerned, there is no difficulty. When these two categories of securities are purchased, they are not investments but are

always held by banks as stock-in-trade. Therefore, the interest accrued on the said two categories of securities will have to be treated as income from the bank's business. Thus, after the deduction of broken period interest is allowed, the entire interest earned or accrued during the particular year is put to tax.

- Thus, what is taxed is the real income earned on the securities. Banks will earn profits by selling the securities. Even that will be the income considered under Section 28 after deducting the purchase price. Therefore, in these two categories of securities, the benefit of deducting interest for the broken period will be available to Banks.
- If a deduction on account of broken-period interest is not allowed, the broken-period interest as a capital expense will have to be added to the acquisition cost of the securities, which will then be deducted from the sale proceeds when such securities are sold in the subsequent years. Therefore, the profit earned from the sale would be reduced by the amount of broken-period interest. Thus, the department sought to do the academic exercise.
- The securities of the HTM category are usually held for a long term till their maturity. Therefore, such securities usually are valued at cost price or face value. In many cases, Banks hold the same as investments. HTM Securities can be said to be held as an investment (i) if the securities are actually held till maturity and have yet to be transferred before and (ii) if they are purchased at their cost price or face value.
- In the instant case, as the securities were treated as stock-in-trade, the interest on the broken period cannot be considered as capital expenditure. It will have to be treated as revenue expenditure, which can be allowed as a deduction. The impugned judgment is based on the decision in the case of Vijaya Bank Ltd (2) SCC 147. It also refers to the decision of the Bombay High Court in the case of American Express International Banking Corporation [2002] 125 Taxman 488 (Bombay) and holds that the same was not correct.
- The bank-assessee was liable to pay the broken period of interest as part of the price paid for the securities. Hence, a deduction on the said amount was disallowed.



TAX CALENDAR

INDIRECT TAX

Due Date	Returns
Nov 7th, 2024	FEMA-ECB [ECB-2]
Nov 10th, 2024	GSTR-7 (GST-TDS)
	GSTR-8 (GST-TCS)
Nov 11th, 2024	GSTR-1-Other than QRMP scheme
Nov 13th, 2024	GSTR-5-Non-Resident Taxable Person
	GSTR-6-Input Service Distributor

DIRECT TAX

Due Date	Returns
Nov 7th, 2024	Due date for deposit of Tax deducted/collected for the month of October, 2024. 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
Nov 14th, 2024	Due date for issue of furnishing TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S (by specified person) in the month of September 2024
Nov 15th, 2024	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2024
	Due date for furnishing of Form 24G by an office of the Government where TDS/ TCS for the month of October, 2024 has been paid without the production of a challan
	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of October, 2024



E-PUBLICATIONS

Of

TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals

Handbook for Certification for difference between GSTR-2A & GSTR - 3B

Impact of GST on Real Estate

Insight into Customs-Procedure & Practice

Input Tax Credit and In depth Discussion

Taxation on Co-operative Sector

Guidance notes on Preparation and Filing of Form GSTR 9 and 9C

Guidance Note on Anti Profiteering

Handbook on GST on Service Sector

Handbook on Works Contract under GST

Handbook on Impact of GST on MSME Sector

Assessment under the Income Tax Law

Impact on GST on Education Sector

International Taxation and Transfer Pricing

Handbook on E-Way Bill

Handbook on Filing of Returns

Handbook on Special Economic Zone and Export Oriented Units

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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

1. Successfully conduct all Taxation Courses.
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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