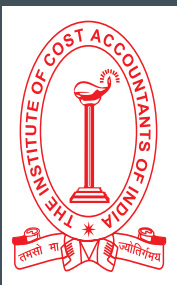


April 2024

TAX Bulletin

Volume - 158
17.04.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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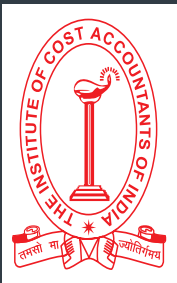
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Behind every successful business decision, there is always a **CMA**

From Tax Research Department

One change that Notification No. 04/2024-Central Tax had prescribed was a special procedure to be followed by registered persons engaged in the manufacture of specified goods (such as pan masala and certain tobacco products). This procedure will now come into effect from 15 May 2024 as against 1 April 2024. Again, for taxpayers filing monthly GST returns, the due date of filing Form GSTR-1 for March 2024 has been extended to 12 April 2024.

One important case that is important to discuss today would be: Satyam Castings Pvt. Ltd. Vs. Deputy Director, DGGI [TS-198-HC(ORI)-2024-GST]. The issue that was brought up in this case was whether parallel proceedings can be initiated by the Directorate General of GST Intelligence (DGGI) in cases where a verification proceeding is pending before the State tax authorities.

The understandings from the said case were:

1. Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act) bars initiation of a proceeding by a proper officer under the CGST Act in cases where a proper officer under the State Goods and Services Tax Act/ Union Territory Goods and Services Tax Act has initiated a proceeding on the same subject matter.
 - If the subject matter of the proceeding is entirely different, there is no bar to the maintainability of the proceeding. The words 'subject matter' can be equated with the phrase cause of action.'
 - The reason behind barring initiation of proceeding on the same subject matter seems to be that the possibility of the final decision in the two proceedings being different cannot be ruled out which would create confusion.
2. In the present case, DGGI was investigating clandestine supply by the Taxpayer in March 2022 whereas the investigation by the officer under the State GST Act was with reference to receipt of materials from one of its suppliers i.e., M/s. Anamika Enterprises.
3. However, there was no reason for the Taxpayer to abstain from responding to the summons issued by the DGGI. Accordingly, without providing a definite opinion on the validity of the parallel proceedings, the Taxpayer was directed to respond to the DGGI proceedings including the SCN. Further, the Taxpayer may also take a plea that the case is covered by Section 6(2)(b) of the CGST Act before the appropriate forum in an appropriate proceeding.

This case was surely an important and would be beneficial for further clarifications by different assesseees.

The Tax Research Department conducted an important webinar in the month of April, 2024. The first webinar was on the topic: 'Principles of Natural Justice: Need of the hour in GST Regime' conducted on the 8th of April, 2024. The faculty for the session was CMA Niranjana Swain, Advocate and Tax Professional.

On the departmental front all the regular activities of the department, like conduct of courses, update of Taxation Portal, quiz, courses for colleges and universities all are being carried on with utmost sincerity. I wish the department the best for their efforts.

Thank You.

Tax Research Department

The Institute of Cost Accountants of India

17.04.2024

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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.

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e-Way Bill – Detention, Seizure & Release of Goods

CMA Sanjeev Mangal

Cost Accountant



To monitor the bulk trade, which necessarily takes place through trucks, it was mandated under VAT that each such consignment shall be accompanied by a 'Delivery Note', which was issued from the VAT offices to the taxpayers.

At the end of every month, the taxpayer had to submit a utilization statement of the forms issued. The intention of the tax office was to control the tax evasion being done by a few of the taxpayers. The taxpayer also used to face a great deal of hardship while seeking the blank Delivery Notes/Forms as he/she would have to make several visits to the tax office.

At the check-posts, the trucks would also get detained for a long time on frivolous grounds. With industry estimates, an approximately average 16% of the journey time got wasted at various check posts of States. With e-way bill these State Wise Check Posts are eliminated and time saved is directly and indirectly contributing to the efficient transportation of goods and well-being of transporter.

When the Goods and Services Tax was introduced by the Government, one of its purpose was to make movement of goods easier and enable the business to be carried on in a better way. Hence, in GST regime check posts were abolished all over the country

However, to have a check on the documentation of the movement of goods, the Government introduced a way bill on the e-portal, which is nothing but a delivery challan created in the e-portal. The portal provides an identification number to the e-way bill ("EWB").

As GST was perceived as One Nation- One Tax – One Market, a separate waybill for each State under the

GST system would definitely complicate compliance and in turn, affect the business of the taxpayers and transporters.

Such a system of separate e-Way Bill for each State would result in hindrance to the movement of goods and free trade from one state to another. The State and Central Government officers will also find it difficult to cross-verify such e-Way Bills if generated independently by each State. It would also defeat the concept of "One Nation - Once Tax"

Thus, in order to avoid the complication, a new process is thus required which would ensure that a taxpayer, prior to the movement of goods via a conveyance, would inform each transaction's details to the tax department, obtain an acknowledgment number for having thus informed, and then use this acknowledgment number as a valid document accompanying the truck.

Thus the mechanism which requires the taxpayer to upload the details of each transaction to a common portal and generate a document that can be tracked and verified easily by any stakeholder is known as an e-way bill.

■ Objectives

- Single e-Way Bill for movement of goods throughout the country.
- To prevent the evasion of tax.
- Hassle-free movement of goods across India.
- Tracking the movement of goods with an e-Way Bill number.
- Easier verification of the e-Way Bill by the officers.

Legal Provisions under GST Act regarding e-way Bills

Section 68(1) of the CGST Act stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

And the same is prescribed under Rule 138, which provides as follows:

(1) Every registered person who causes movement

■ Applicability of E-waybil

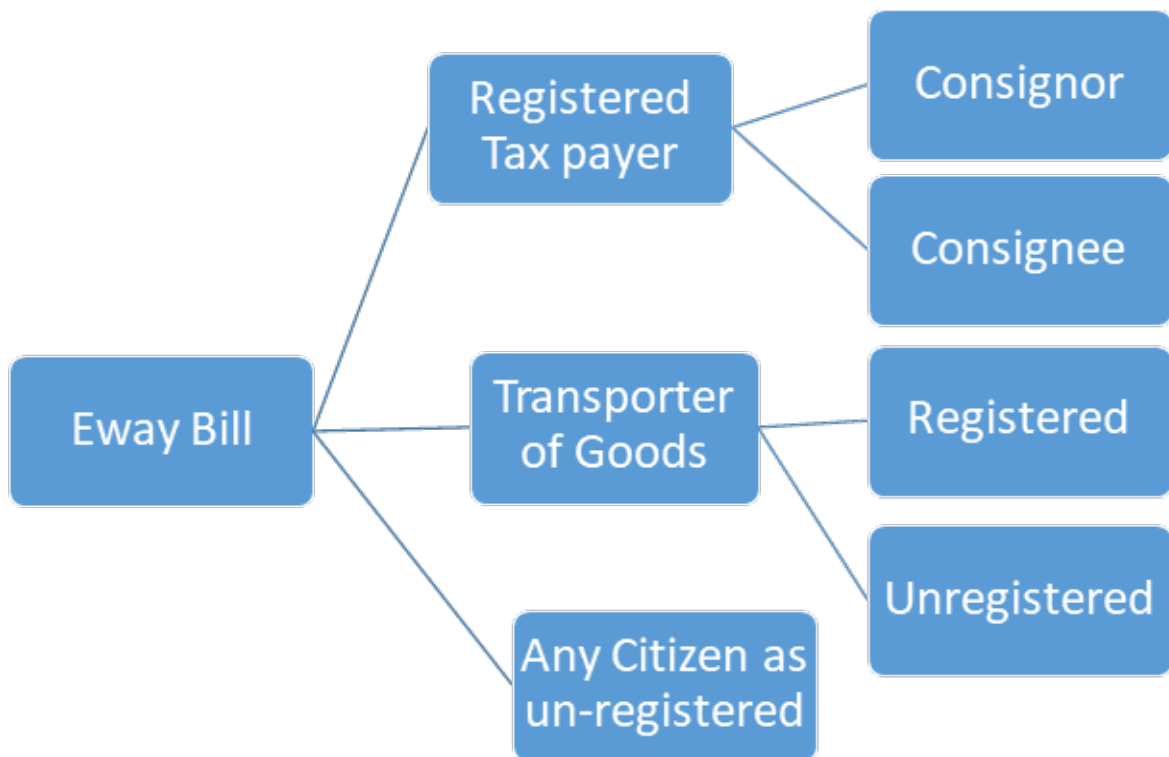
of goods of consignment value exceeding fifty thousand rupees-

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.

Requirement of E-way Bill Generation	
Transaction classified as Supply of Goods	Transaction classified as Supply of Services
E way Bill required at the time of Movement of Goods	goods involved in the supply of services will require EWB
e.g. Sale purchase of goods causing movement/delivery	e.g. supply of services such as leasing of goods

E-WAY BILL - WHO IS RESPONSIBLE TO GENERATE?





Threshold limit to generate e-waybill :

Movement of Goods	Description	Applicable Limit
Intra State	Transportation of goods within the State is called Intra State movement	threshold limit to generate EWB as per SGST Rules
Inter State	Transportation of goods outside the State is called as Inter State movement	threshold limit to generate EWB if the consignment value exceeds 50,000/-

Validity of e-way bill :

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less Than 200 Kms	1 Day
	For every additional 200 Kms or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part thereof	additional 1 Day

If e-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138, the same will be considered as contravention of rules. As per Section 122(1)(xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (EWB is one of the specified documents) shall be liable to a penalty of ₹ 10,000/- or the amount of tax sought to be evaded (wherever applicable) whichever is greater.

Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to Rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of up to 50 kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

Provisions of Detention & Seizure of Conveyance (Section 129 of the CGST Act 2017)

Section 129 (1)	
	(1) Notwithstanding anything contained in this Act, where
Action	any person transports any goods or
	stores any goods while they are in transit
	in contravention of the provisions of this Act or the rules made thereunder,
Reaction	all such goods and conveyance used as a means of transport for carrying the said goods
	and documents relating to such goods and conveyance
	shall be liable to detention or seizure
Remedy	and after detention or seizure, shall be released, —

	where the owner of the goods comes forward for payment of such penalty;	where the owner of the goods does not come forward for payment of such penalty;
In case of Exempted Goods	on payment of an amount equal to two per cent of the value of goods or twenty-five thousand rupees, <pls ask the auhor to update is higher or lower>	on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, <pls ask the auhor to update is higher or lower>
In case of other Goods	penalty equal to two hundred per cent of the tax payable on such goods	on payment of penalty equal to fifty per cent of the value of the goods

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods

129 (3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).

129 (6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty within fifteen days from the date of receipt of the copy of the order the goods or conveyance so detained or seized shall be liable to be sold or disposed of to recover the penalty payable

Provided that the conveyance shall be released on payment by the transporter of penalty or one lakh rupees, whichever is less;

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer

Recent & Important Case laws in Respect of e way Bill :

(1) Goods could not be taken to the destination

within the time for reasons beyond the control of the taxpayer

-[2022] 134 taxmann.com 241 (SC) SUPREME COURT OF INDIA Assistant Commissioner (ST) v. Satyam Shivam Papers (P.) Ltd.

In the present case petition was filed by the Revenue Department against Hon'ble Telangana High Court Judgement wherein, the Court set aside the order passed by the Revenue Department in Form GST MOV-09, imposing tax and penalty on Satyam Shivam Papers Pvt. Ltd. due to the expiry of the e-way bill.

Hon'ble Court also deprecated the Revenue Department for blatant abuse of power in detaining goods by treating validity of the expiry on the e-way bill as amounting to evasion of tax compelling the Petitioner to pay INR 69,000/- by such conduct.

It was held that, no presumption can be drawn that there was an intention to evade tax on account of non-extension of the validity of the e-way bill. Further, directed the Revenue Department to refund the amount collected from the Petitioner with interest @6% p.a. and imposed fine of INR 10,000/- payable to the Satyam Shivam Papers (P.) Ltd .

The present Petition in the Hon'ble Supreme Court was filed by Revenue Department wherein it is contended that, the questions of law is involved in the matter w.r.t. the operation and



effect of Section 129 of Central Goods and Services Tax Act, 2017 (“the CGST Act”) and violation by the Satyam Shivam Papers (P.) Ltd.

The Hon’ble Supreme Court of India in Special Leave to Appeal (C) No(s). 21132/2021 dated January 12, 2022 held as under

Noted that, the Hon’ble High Court had meticulously examined and correctly found that no fault or intent to evade tax could have been inferred.

Further, the amount of costs as awarded is rather on the lower side, considering the overall conduct of the Petitioner and the harassment faced by the Respondent.

Observed that, there was no intent on the part of the Respondent to evade tax and the goods could not be taken to the destination within time, for the reasons beyond the control of the Respondent, including the traffic blockage due to agitation, for which the Petitioner alone is responsible for not providing smooth passage of traffic.

Opined that, there is no question of law nor the question of fact involved in the matter and the petition filed by the Respondent has been misconceived.

(2) Goods unloaded after validity period, although vehicle reached the destination within the prescribed time

- State of Karnataka v. Hemanth Motors [2021] 133 taxmann.com 323 (Karnataka)

In the present case, goods were transported by the petitioner along with the proper invoice and e-way bill. Validity of e-way bill was from 31.12.2018 to 01.01.2019. The vehicle along with goods reached the destination before expiry of e-way bill i.e. on 01.01.2019 and vehicle along with goods was parked at the destination as goods cannot be unloaded on the same day.

Next day, i.e. on 02.01.2019 the proper officer seized the goods early morning before vehicle was unloaded at destination point and tax along

with penalty was levied on account of expiry of e-way bill.

The petitioner filed appeal but same was dismissed. Thereafter assessee filed writ petition against the same in High Court wherein the Hon’ble Judge has concluded that that the conveyance had reached the destination well within the expiry of e-way bill and allow the writ petition and quashed the impugned order.

Against the Order of Hon’ble High Court the present writ petition was filed at Hon’ble Supreme Court, wherein it was observed that “The High Court in his order clearly stated that the conveyance had reached the destination on 1-1-2019 at 11.00 p.m., which was well within the prescribed validity period under the e-way bill.

The contention of the authorities that the consignment was being delivered on 2-1-2019 and, therefore, the goods cannot be transported cannot be acceded to. The materials on record clearly indicate that the action by the authorities was taken at the destination and not during transit, and therefore, an inference has to drawn that the conveyance had reached the destination well within the subsistence of the valid period stipulated under the e-way bill.

(3) No Penalty on movement with Expired e-way Bill, if intent to evade absent

Balaji Steel Rolling Mills Ltd. v. State of Tripura [2023] 147 taxmann.com 417 (TRIPURA)

In the instant case, ‘e-Way bills’ were generated on 02-02-2020, which were valid up to 15-2-2020. But owing to some unforeseen circumstances, the movement of the said vehicles was delayed. The said vehicles reached Churaibari on 17-2-2020. On the ground that ‘e-Way bills’ have expired, the GST authorities imposed duty with penalty.

The High Court allowed the petition holding that the ‘e-Way bills’ had expired during the transit and the petitioner was not in a position to ask for its renewal to the competent authority when the

vehicle entered into the territory of the State of Tripura. In view of the said fact, this Court is of the opinion that the order dated 6-4-2021 passed by the Appellate Authority is not just and proper, and the same is liable to be set aside.

(4) Intent to Evade not to be seen in cases wherein goods are transferred to another vehicle and e-way Bill not generated

Asian Switchgear (P.) Ltd. v. State Tax Officer [2023] 149 taxmann.com 120 (Calcutta)

The High Court observed that the moment the goods are unloaded from the vehicle in respect of which e-way bill was generated and loaded in a different vehicle without any e-way bill, a statutory breach is committed, liable to be dealt with in accordance with the statute. It is not for the authority to ascertain the reason as to why such action has been undertaken. There is no requirement in law to verify the reason for transporting goods in a vehicle without a proper e-way bill.

The High Court further observed that the decision of Hon'ble Apex Court in Satyam Shivam does not fit into the facts of the present case, and accordingly, the ratio laid down therein cannot be made applicable in the facts and circumstances of the instant case. On the other hand, it relied upon the precedence laid down by the Hon'ble Apex Court in the matter of Guljag Industries wherein it was held that breach of statutory provision would attract levy of penalty and the officer does not have any authority to either reduce or waive the penalty. They further held that the decision of the same High Court in Ashok Kumar Sureka cannot be treated as a precedent.

The High Court thereafter, looking to the admission of the petitioner that the vehicle in which the goods stood transferred for being transported allegedly to the pre-recorded destination did not have an e-way bill, was convinced that provision of Section 129 will be attracted in such a situation.

(5) Minor Discrepancy in Vehicle Number not to

result in Penalty is Intent to Evade absent

Varun Beverages Ltd. v. State of U.P [2023] 147 taxmann.com 341 (Allahabad)

The issue before the High Court was whether wrong mention of number of Vehicle No. HR-73/6755 through which the goods were in transit and detained by the taxing authorities would be considered as a human error and will be covered under the circular No. 41/15/2018-GST dated 13-4-2018 and 49/23/2018-GST dated 21-6-2018, as the number mentioned in the e-way bill was UP-13T/6755 and the mistake is of only of HR-73 in place of U.P.-13T.

The Department did not place any other material so as to bring on record that there was any intention on the part of the dealer to evade tax except the wrong mention of part of registration number of the vehicle in the e-way bill. The vehicle through which the goods were transported and the bilty showed the one and the same number while only there was a minor discrepancy in Part-B of the e-way bill where the description of the vehicle is entered by the dealer.

The High Court observed that the present case was of a case of stock transfer and since there was no intention on the part of dealer to evade any tax, the minor discrepancy as to the registration of vehicle in State in the e-way bill would not attract proceedings for penalty under section 129 and the order passed by the detaining authority as well as first appellate authority cannot be sustained

(6) Vehicle Found at other Route not a valid reason for the detention of Vehicle

-Kannangayathu Metals v. Assistant State Tax Officer [2020] 113 taxmann.com 176 (Kerala)

The High Court observed that there cannot be a mechanical detention of a consignment solely because the driver of the vehicle had opted for a different route other than what is normally taken by other transporters of goods covered by similar e-Way bills.



No doubt, if the vehicle is detained at a place that is located on an entirely different stretch of road and plying in a direction other than towards the destination shown in the e-Way bill, then a presumption could be drawn that there was an attempt at transportation contrary to the e-Way Bill. In the instant case, there is no such indication.

The High Court allowed the writ petition by directing the respondent to forthwith release the goods and consignment to the petitioner on the petitioner producing a copy of this judgment before him-

(7) REUSE OF EWAY BILL : - Onus to Prove Reuse of E-way Bill is on Revenue with positive evidence

M/s Anandeshwar Traders v. State of U.P. and Others' reported in 2021 U.P.T.C. [Vol. 107]-421.

The High Court observed that even if the dealer does not cancel the e-way bill within 24 hours of its generation, it would remain a matter of inquiry to determine on evidence whether an actual transaction had taken place or not. That would be subject to evidence received by the authority.

The High Court thereafter stated that since the petitioner-assessee had pleaded a negative fact, the initial onus was on the assessing authority to lead positive evidence to establish that the goods had been transported on an earlier occasion. Neither any inquiry appears to have been made at that stage from the purchasing dealer or any toll plaza or other source, nor the petitioner was confronted with any adverse material as may have shifted the onus on the assessee to establish non-transportation of goods on an earlier occasion.

The presumption could not be drawn on the basis of the existence of the e-way bills though there did not exist evidence of actual transaction performed and though there is no statutory presumption available.

Therefore, the High Court held that the mere assertion made at the end of the seizure order that it was clearly established that the assessee had made double use of the e-way bills is merely a conclusion drawn bereft of material on record. It is the reason based on facts and evidence found by the assessing authority that has to be examined to test the correctness of the order and not the conclusions, recorded without any material on record.

(8) Generation of e-way bill after interception of vehicle by the revenue authority

Jay Vijay Traders Varanasi V/s State of U.P [2024] 159 taxmann.com 122 (Allahabad)

Transporting of goods without possession in the absence of e-way bill constitutes a contravention of the provisions of GST Act. Authorities found that e-way bill which was later produced was in fact generated after the interception of the vehicle by the revenue authority. The said e-way bill was rejected as it was found to be an attempt to post facto rationalize the illicit transportation of goods. The aforesaid findings have not been assailed before the initial authority in the show cause notice or in the memo of appeal or even in the writ petition.

Clarifications by Department vide Circulars :

To overcome the problems faced by tax payers and to provide a standard operating procedure for invoking provisions of Section 129 of CGST Act 2017' :

The said circular inter-alia states that if a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, in the following situations:

- (a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;

- (b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- (c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- (d) Error in one or two digits of the document number mentioned in the e-way bill;

Error in 4 or 6-digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- (f) Error in one or two digits/characters of the vehicle number.

It is further clarified in the circular that in case of above situation minor penalty to the tune of ₹. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (₹.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment

Concluding Remark:

The CGST Act along with the rules thereunder confers wide powers to the GST authorities for the purpose of enforcement of e-way bill provisions. None-the-less specifically fails to enumerate specific grounds or conditions upon which a conveyance or goods may be detained.

Consequently GST authorities have exercised this power unreasonably in certain cases.

While relief has been granted by Courts to taxpayers against arbitrary detention of goods in several cases, the hardship caused to the taxpayers cannot be ignored.

Therefore, there is a need for guidelines or rules clearly elucidating grounds for detention and restrictions to the same to reduce the ever increasing litigation between the taxpayer and the department and hope that the government takes all these different issues into consideration and covers in minor lapses category to levy a penalty of ₹.1000/- in circular no.64/38/2018.

Further, it is important for professionals to go through all the important decisions of the high court and supreme court decisions in the past indirect tax regime wherein decisions were taken to waive off penalties for procedural lapses. Whenever the transactions are genuine without the intention of tax evasion, the lapses in waybills can be contested though it is time taking exercise.



Taxability of Transit Rent



CMA Parmeswaran Vythilingam Iyer

Cost Accountant

Introduction

The ordinary meaning of Rent would be an amount which the Tenant /Licensee pays to the Landlord /Licensor. Rental Income is Taxed under the Head Income from House Property Section 22 of Income Tax Act,1961 and Section 94(I) of the Income Tax Act,1961 discusses about the TDS on Rent. “Transit Rent”, which is commonly referred as Hardship Allowance /Rehabilitation Allowance / Displacement Allowance, which is paid by the Developer/ Landlord to the tenant who suffers hardship due to dispossession.

This article attempts to delve into the Taxability of Transit Rent and TDS applicability on the transit rent payment by the Developer to the tenant.

Income From House Property (Section 22)

The annual value of property consisting of any buildings or land appurtenant thereto of which assessee is the owner, other than such portions of such property as he may occupy for the purpose of any business or profession carried on by him the profits of which are chargeable to Tax, all be chargeable to Income-Tax under the head “Income from House Property”

TDS on Rent (Section 194(I))

Person Responsible for Paying Rent: Any person, not being an Individual or a Hindu undivided family, who is responsible for paying to a resident

any income by way of rent, shall, deduct Income-Tax thereon.

Individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section

Time of Deduction

At the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode whichever is earlier

Where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

Rate of Tax Deduction:

- (a) Two per cent. for the use of any machinery or plant or equipment;
- and
- (b) Ten per cent. for the use of any land or building (including factory building) or land appurtenant

to a building (including factory building) or furniture or fittings

No TDS

No deduction shall be made under this section:

1. Where the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed ₹.2,40,000
2. Where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.

Meaning of Rent: Rent means any payment, by whatever name called, under any lease, sub-lease, tenancy, or any other agreement or arrangement for the use of (either separately or together) any, —

- (a) land; or
- (b) building (including factory building); or
- (c) land appurtenant to a building (including factory building); or
- (d) machinery; or
- (e) plant; or
- (f) equipment; or
- (g) furniture; or
- (h) fittings,

whether or not any or all the above are owned by the payee

Smt. Delilah Raj Mansukhani in ITA No. 3526/MUM/2017 (Assessment Year 2010-2011)

In the said case the CIT(A) found based on details forwarded by from M/s. Calvin Properties that assessee has been given compensation for alternative

accommodation of ₹.2,60,000/- as per in terms of Development Agreement, the CIT(A) accordingly taxed the amount received over and the rent actually paid by the assessee. The above decision of CIT(A) was further appealed by the assessee in ITAT which held that said payment is in the nature of hardship allowance / rehabilitation allowance and is not liable to tax. The ITAT Bench relied on the the decision of the Co-ordinate Bench in the case of Shri Devshi Lakhamshi Dedhiavs. ACIT in ITA No.5350/Mum/2012.

Ajay Parasmal Kothari in ITA No.2823/MUM/(A.Y : 2013-2014)

In the said case the Assessing officer in the course of assessment completed u/s 143(3) of the Income Tax Act,1961 made an addition of ₹.3,79,191 on account of rent received from the builders on the property under redevelopment Accordingly, he treated the above amount as income of the assessee and taxed under the head “income from other sources”, aggrieved by the addition assessee appealed before the CIT(A)-41,Mumbai u/s 250 of the Act. CIT(A) sustained the above addition made by the AO vide order CIT(A)-41/IT/152/16-17 dated 23.05.2018. Aggrieved by the said order of CIT(A) the assessee further appealed the matter before the Tribunal, the ITAT held that compensation received by the assessee Ajay Parasmal Kothari towards displacement in terms of Development Agreement is not a revenue receipt and constitute capital receipt as the property has gone into redevelopment, the Tribunal relying on the decision of the Co-ordinate Bench in the case of Shri Devshi Lakhamshi Dedhiavs. ACIT in ITA No.5350/Mum/2012.

Sarfaraz S. Furniturewalla Versus Afshan Sharfali Ashok Kumar & Ors.

In the said case the High Court of Bombay decided upon the issue whether there should be deduction of TDS on the amount payable as Transit Rent to the Tenants by the by the Developer/Builder. For this purpose, the HC considered Section 194(I) of the Income Tax Act,1961.

The Court observed that the relevant factor which has to borne in the mind is that Sec 194(I) of the Income Tax Act,1961 refers to Rent and in explanation to the Section term “Rent” is clarified. For deciding the above



issue the HC relied on the decision passed by ITAT in Smt. Delilah Raj Mansukhani in ITA No. 3526/MUM/2017 (Assessment Year 2010-2011) and Ajay Parasmal Kothari in ITA No.2823/MUM/(A.Y : 2013-2014) and held “Transit Rent”, as Hardship Allowance / Rehabilitation Allowance / Displacement Allowance, which is paid by the Developer/Landlord to the tenant who suffers hardship due to dispossession.

Hence, ‘Transit Rent’ is not to be considered as revenue receipt and is not liable to be tax, as a result there will be no question of deduction of T.D.S. from the amount payable by the Developer to the tenant.

Conclusion

The above Ruling of the Bombay High Court aims to bring Clarity and Transparency about Taxability with respect to Transit Rent for the Real Estate Developers, Tenants and Tax Administration and could give boost to the redevelopment projects in the Economy.

PRESS RELEASE

Sixteenth Finance Commission (XVIFC) invites applications for Young Professionals (YPs)/Consultants on contract basis

Posted On: 12 APR 2024 12:24PM by PIB Delhi

The Sixteenth Finance Commission (XVIFC) invites applications for Young Professionals (YPs)/Consultants on contract basis. The XVIFC has uploaded eligibility, terms of reference, remuneration and application form on its website. (<https://fincomindia.nic.in>)

Applicants desirous of being appointed to the YPs and

Consultant on contract basis in the Commission may forward their application in the duly filled proforma, only by e-mail addressed to the Director, 16th Finance commission at manish.kr1975[at]nic[dot]in with a copy to rahul.sharma89[at]nic[dot]in expressing their interest. No physical copy be sent for this purpose.

For more details, see guidelines for engagement of YPs and Consultants in 16th Finance Commission:

<https://fincomindia.nic.in/asset/doc/Guidelines%20for%20YPs%20&%20Consultants%20in%2016th%20Finance%20Commission.pdf>

INDIRECT TAX

Second highest monthly Gross GST Revenue collection in March at ₹ 1.78 lakh crore; Records 11.5% y-o-y growth (18.4% on net basis)

Yearly gross revenue ₹ 20.18 lakh crore; 11.7% growth (13.4% on net basis)

Posted On: 01 APR 2024 3:41PM by PIB Delhi

Gross Good and Services Tax (GST) revenue for March 2024 witnessed the second highest collection ever at ₹1.78 lakh crore, with a 11.5% year-on-year growth. This surge was driven by a significant rise in GST collection from domestic transactions at 17.6%. GST revenue net of refunds for March 2024 is ₹1.65 lakh crore which is growth of 18.4% over same period last year.

Strong Consistent Performance in FY 2023-24: FY 2023-24 marks a milestone with total gross GST collection of ₹. 20.18 lakh crore exceeding ₹20 lakh crore, a 11.7% increase compared to the previous year. The average monthly collection for this fiscal year stands at ₹1.68 lakh crore, surpassing the previous

year's average of ₹1.5 lakh crore. GST revenue net of refunds as of March 2024 for the current fiscal year is ₹18.01 lakh crore which is a growth of 13.4% over same period last year.

Positive Performance Across Components:

Breakdown of March 2024 Collections:

- Central Goods and Services Tax (CGST): ₹34,532 crore;
- State Goods and Services Tax (SGST): ₹43,746 crore;
- Integrated Goods and Services Tax (IGST): ₹87,947 crore, including ₹40,322 crore collected on imported goods;
- Cess: ₹12,259 crore, including ₹996 crore collected on imported goods.

Similar positive trends are observed in the entire FY 2023-24 collections:

- Central Goods and Services Tax (CGST): ₹3,75,710 crore; State Goods and Services Tax (SGST): ₹4,71,195 crore;



- Integrated Goods and Services Tax (IGST): ₹10,26,790 crore, including ₹4,83,086 crore collected on imported goods;
- Cess: ₹1,44,554 crore, including ₹11,915 crore collected on imported goods.

Inter-Governmental Settlement: In the month of March, 2024, the Central Government settled ₹43,264 crore to CGST and ₹37,704 crore to SGST from the IGST collected. This translates to a total revenue of ₹77,796 crore for CGST and ₹81,450 crore for SGST

for March, 2024 after regular settlement. For the FY 2023-24, the central government settled ₹4,87,039 crore to CGST and ₹4,12,028 crore to SGST from the IGST collected.

The chart below shows trends in monthly gross GST revenues during the current year. Table-1 shows the state-wise figures of GST collected in each State during the month of March, 2024 as compared to March, 2023. Table-2 shows the state-wise figures of post settlement GST revenue of each State till the month of March, 2024.

Chart: Trends in GST Collection

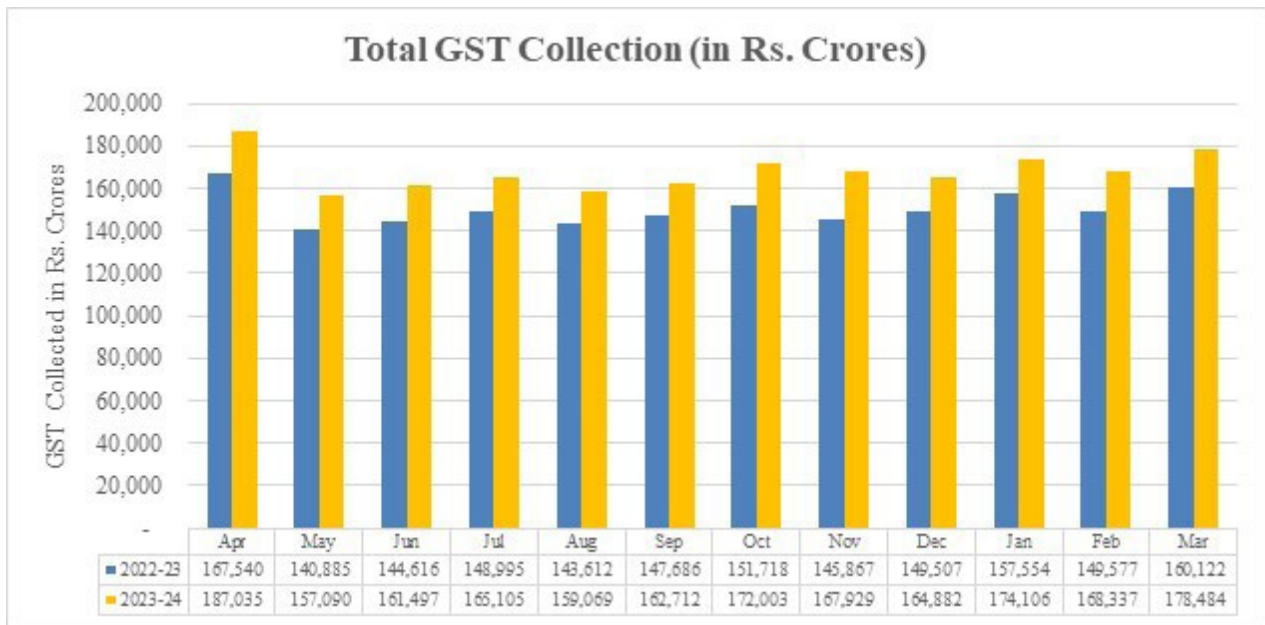


Table 1: State-wise growth of GST Revenues during March, 2024^{II}

State/UT	Mar-23	Mar-24	Growth (%)
Jammu and Kashmir	477	601	26%
Himachal Pradesh	739	852	15%
Punjab	1,735	2,090	20%
Chandigarh	202	238	18%
Uttarakhand	1,523	1,730	14%
Haryana	7,780	9,545	23%
Delhi	4,840	5,820	20%
Rajasthan	4,154	4,798	15%

State/UT	Mar-23	Mar-24	Growth (%)
Uttar Pradesh	7,613	9,087	19%
Bihar	1,744	1,991	14%
Sikkim	262	303	16%
Arunachal Pradesh	144	168	16%
Nagaland	58	83	43%
Manipur	65	69	6%
Mizoram	70	50	-29%
Tripura	90	121	34%
Meghalaya	202	213	6%
Assam	1,280	1,543	21%
West Bengal	5,092	5,473	7%
Jharkhand	3,083	3,243	5%
Odisha	4,749	5,109	8%
Chhattisgarh	3,017	3,143	4%
Madhya Pradesh	3,346	3,974	19%
Gujarat	9,919	11,392	15%
Dadra and Nagar Haveli and Daman & Diu	309	452	46%
Maharashtra	22,695	27,688	22%
Karnataka	10,360	13,014	26%
Goa	515	565	10%
Lakshadweep	3	2	-18%
Kerala	2,354	2,598	10%
Tamil Nadu	9,245	11,017	19%
Puducherry	204	221	9%
Andaman and Nicobar Islands	37	32	-14%
Telangana	4,804	5,399	12%
Andhra Pradesh	3,532	4,082	16%
Ladakh	23	41	82%
Other Territory	249	196	-21%
Center Jurisdiction	142	220	55%
Grand Total	1,16,659	1,37,166	18%



Table-2: SGST & SGST portion of IGST settled to States/UTs April-March (₹. in crore)

State/UT	Pre-Settlement SGST			Post-Settlement SGST ¹²		
	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Jammu and Kashmir	2,350	2,945	25%	7,272	8,093	11%
Himachal Pradesh	2,346	2,597	11%	5,543	5,584	1%
Punjab	7,660	8,406	10%	19,422	22,106	14%
Chandigarh	629	689	10%	2,124	2,314	9%
Uttarakhand	4,787	5,415	13%	7,554	8,403	11%
Haryana	18,143	20,334	12%	30,952	34,901	13%
Delhi	13,619	15,647	15%	28,284	32,165	14%
Rajasthan	15,636	17,531	12%	35,014	39,140	12%
Uttar Pradesh	27,366	32,534	19%	66,052	76,649	16%
Bihar	7,543	8,535	13%	23,384	27,622	18%
Sikkim	301	420	39%	839	951	13%
Arunachal Pradesh	494	628	27%	1,623	1,902	17%
Nagaland	228	307	35%	964	1,057	10%
Manipur	321	346	8%	1,439	1,095	-24%
Mizoram	230	273	19%	892	963	8%
Tripura	435	512	18%	1,463	1,583	8%
Meghalaya	489	607	24%	1,490	1,713	15%
Assam	5,180	6,010	16%	12,639	14,691	16%
West Bengal	21,514	23,436	9%	39,052	41,976	7%
Jharkhand	7,813	8,840	13%	11,490	12,456	8%
Odisha	14,211	16,455	16%	19,613	24,942	27%
Chhattisgarh	7,489	8,175	9%	11,417	13,895	22%
Madhya Pradesh	10,937	13,072	20%	27,825	33,800	21%
Gujarat	37,802	42,371	12%	58,009	64,002	10%
Dadra and Nagar Haveli and Daman and Diu	637	661	4%	1,183	1,083	-8%
Maharashtra	85,532	1,00,843	18%	1,29,129	1,49,115	15%
Karnataka	35,429	40,969	16%	65,579	75,187	15%
Goa	2,018	2,352	17%	3,593	4,120	15%
Lakshadweep	10	19	93%	47	82	75%

State/UT	Pre-Settlement SGST			Post-Settlement SGST ^[2]		
	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Kerala	12,311	13,967	13%	29,188	30,873	6%
Tamil Nadu	36,353	41,082	13%	58,194	65,834	13%
Puducherry	463	509	10%	1,161	1,366	18%
Andaman and Nicobar Islands	183	206	12%	484	528	9%
Telangana	16,877	20,012	19%	38,008	40,650	7%
Andhra Pradesh	12,542	14,008	12%	28,589	31,606	11%
Ladakh	171	250	46%	517	653	26%
Other Territory	201	231	15%	721	1,123	56%
Grand Total	4,10,251	4,71,195	15%	7,70,747	8,74,223	13%

[1] Does not include GST on import of goods

[2] Post-Settlement GST is cumulative of the GST revenues of the States/UTs and the SGST portion of the IGST settled to the States/UTs

DIRECT TAX

Functionalities to file commonly used ITRs enabled by CBDT on 1st April, 2024

Posted On: 04 APR 2024 7:50PM by PIB Delhi

The Central Board of Direct Taxes (CBDT) has facilitated taxpayers to file their Income Tax Returns (ITRs) for the Assessment Year 2024-25 (relevant to Financial Year 2023-24) from 1st April, 2024 onwards. The ITR functionalities i.e. ITR-1, ITR-2 and ITR-4, commonly used by taxpayers are available on the e-filing portal from 1st April, 2024 onwards for taxpayers to file their Returns. Companies will also be able to file their ITRs through ITR-6 from April 1 onwards.

As a precursor to this, CBDT had notified the ITR forms early, beginning with ITRs 1 and 4 which were notified on December 22nd, 2023, ITR-6 was notified on 24th January, 2024 and ITR-2 was notified on January 31st, 2024.

To facilitate the e-Return Intermediaries (ERI), the JSON Schema for ITR-1, ITR-2, ITR-4 and ITR-6 and Schema of Tax Audit Reports have also been made available for A.Y. 2024-25. The same can be accessed under downloads section of the e-filing portal.

Thus, taxpayers have been enabled to file ITR-1, ITR-2, ITR-4 and ITR-6 for A.Y. 2024-2025 on the e-filing portal from 01.04.2024. In fact, about 23,000 ITRs for A.Y. 2024-25 have already been filed till date. Facility to file ITRs 3, 5 and 7 will be made available shortly.

This is for the first time in recent times, that the Income Tax department has enabled taxpayers to file their Returns on the first day of the new financial year. This is another giant step towards ease of compliance and seamless taxpayer services.

Income Tax Returns website landing page: <https://eportal.incometax.gov.in/iec/foservices/#/login>



NOTIFICATIONS

INDIRECT TAX

GST (CENTRAL TAX)

NOTIFICATION NO 07/2024-CENTRAL TAX

New Delhi, the 08th April, 2024.

S.O....(E).— In exercise of the powers conferred by sub-section (1) of section 50 read with section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (herein after referred to as the Act), the Government,

on the recommendations of the Council, hereby notifies the rate of interest per annum to be 'Nil', for the class of registered persons mentioned in column (1) of the Table given below, who were required to furnish the return in **FORM GSTR-3B**, but failed to furnish the said return for the months mentioned against the corresponding entry in column (2) of the said Table by the due date, for the period mentioned against the corresponding entry in column (3) of the said Table, namely:—

TABLE

Class of registered persons	Months	Period for which interest is to be 'Nil'
(1)	(2)	(3)
Registered person having the following Goods and Services Tax Identification Numbers who are liable to furnish the return as specified under sub-section (1) of section 39 of the Act but could not file the return for the month as mentioned in the corresponding column (2), by the due date, because of technical glitch on the portal but had sufficient balance in their electronic cash ledger or electronic credit ledger, or had deposited the required amount through challan, namely: -		From the due date of filing return in Form GSTR 3B to the actual date of furnishing such return.
1. 19AAACI1681G1ZM	June, 2018	
2. 19AAACW2192G1Z8	October 2018	
3. 19AABCD7720L1ZF	July 2017 and August 2017	
4. 19AAECS6573R1ZC	July 2017 to February 2018	

[F.No.CBIC-20013/7/2021-GST]

NOTIFICATION NO. 08/2024-CENTRAL TAX

New Delhi, dated the 10th April, 2024

S.O....(E).—In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 04/2024-Central Tax, dated the 5th January, 2024 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 85(E), dated the 5th January, 2024, namely:-

In the said notification, in para 4, for the words and letters “1st day of April, 2024”, the words and letters “15th day of May, 2024” shall be substituted.

2. This notification shall come into force from 1st day of April, 2024.

[F.No.CBIC-20001/7/2023-GST]

NOTIFICATION NO. 09/2024 – CENTRAL TAX

New Delhi, the 12th April, 2024

G.S.R.....(E).-In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 83/2020 –Central Tax, dated the 10th November, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 699(E), dated the 10th November, 2020, namely:-

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely:-

“Provided also that the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the

said rules for the registered persons required to furnish return under sub-section (1) of section 39 of the said Act, other than the registered persons who are required to furnish return under proviso of the said sub-section, for the tax period March, 2024, shall be extended till the twelfth day of April, 2024.”

2. This notification shall be deemed to have come into force with effect from the 11th day of April, 2024.

[F. No. CBIC-20021/1/2024-GST]

CUSTOMS (TARIFF)

NOTIFICATION NO. 23/2024-CUSTOMS

New Delhi, the 5th April, 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) read with section 124 of the Finance Act, 2021 (13 of 2021), 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. 64/2023-Customs, dated the 07th December, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 884(E),, dated the 07th December, 2023, namely:-

In the said notification, in the Table, against S. No. 1, in Column (4), for the words and figures “30th day of April, 2024”, the words and figures “30th day of June, 2024” shall be substituted.

[F. No. CBIC-190354/241/2023-TO(TRU-I)]

CUSTOMS (NON - TARIFF)

NOTIFICATION NO. 27/2024 - CUSTOMS (N.T.)

New Delhi, dated the 4th April, 2024

In exercise of the powers conferred by section 14 of



the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 24/2024-Customs(N.T.), dated 26th March, 2024 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 5th April, 2024, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	56.10	53.70
2.	Bahraini Dinar	230.05	213.30
3.	Canadian Dollar	62.75	60.75
4.	Chinese Yuan	11.75	11.35
5.	Danish Kroner	12.30	11.95
6.	EURO	92.05	88.95
7.	Hong Kong Dollar	10.80	10.50
8.	Kuwaiti Dinar	280.2	262.80
9.	New Zealand Dollar	51.45	49.10
10.	Norwegian Kroner	7.90	7.70
11.	Pound Sterling	107.35	103.90
12.	Qatari Riyal	23.65	22.25
13.	Saudi Arabian Riyal	23.00	21.65
14.	Singapore Dollar	62.90	60.95
15.	South African Rand	4.60	4.35
16.	Swedish Kroner	7.95	7.75
17.	Swiss Franc	94.15	90.70
18.	Turkish Lira	2.70	2.55
19.	UAE Dirham	23.45	22.05
20.	US Dollar	84.35	82.60

SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	55.85	54.20
2.	Korean Won	6.40	6.00

[F.No. 468/01/2024-Cus.V]

NOTIFICATION NO. 28/2024-CUSTOMS (N.T.)

New Delhi, 09th April, 2024

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

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)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	929 (i.e., no change)
2	1511 90 10	RBD Palm Oil	939 (i.e., no change)
3	1511 90 90	Others – Palm Oil	934 (i.e., no change)
4	1511 10 00	Crude Palmolein	944 (i.e., no change)
5	1511 90 20	RBD Palmolein	947 (i.e., no change)
6	1511 90 90	Others – Palmolein	946 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	938 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5033(i.e., no change)



TABLE-2

Sl. No.	Chapter / heading / sub-heading / tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	747 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	900 per kilogram
3.	71	<p>(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92;</p> <p>(ii) Medallions and silver coins having silver content not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</p> <p>Explanation - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	900 per kilogram
4.	71	<p>(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p> <p>Explanation - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	747 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6259 (i.e., no change)"

2. This notification shall come into force with effect from the 10th day of April, 2024.

[F. No. 467/01/2024-Cus.V]

NOTIFICATION NO.29/2024-CUSTOMS (N.T.)

New Delhi, 15th April, 2024

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

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)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	952
2	1511 90 10	RBD Palm Oil	955
3	1511 90 90	Others – Palm Oil	954
4	1511 10 00	Crude Palmolein	959
5	1511 90 20	RBD Palmolein	962
6	1511 90 90	Others – Palmolein	961
7	1507 10 00	Crude Soya bean Oil	950
8	7404 00 22	Brass Scrap (all grades)	5104

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	773 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	939 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content	939 per kilogram



Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
		not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	
4.	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	773 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6033"

2. This notification shall come into force with effect from the 16th day of April, 2024.

[F. No. 467/01/2024-Cus.V]

JUDGEMENT

INDIRECT TAX

HC DIRECTS GST AUTHORITIES TO FURNISH ENTIRE MATERIAL AVAILABLE IN SUPPORT OF SCN TO ASSESSEE

Facts of the case - Nirmal Metal v. Union of India - [2024] (Delhi)

The petitioner received a show cause notice (SCN) from the GST department. It filed writ petition before the High Court and challenged the SCN on the ground that it was bereft of any details and no details were provided to the petitioner.

However, the department submitted that all the requisite details were uploaded on the portal and were available to the petitioner and petitioner had even responded to the SCN by filing a reply.

Decision of the case :

The Honorable High Court noted that all details were not provided in the SCN. Therefore, the Court disposed of the petition with the direction that department would furnish to the petitioner the entire material available with the department in support of the SCN. The petitioner was also granted liberty to file a detailed response and thereafter, the department was directed to dispose of the SCN by a speaking order after giving an opportunity of personal hearing to the petitioner.

HC DIRECTS GOVT. TO CONSIDER EXTENDING BENEFIT OF TIME LIMIT EXTENSION TO FILE APPEAL U/S 129 AND 130 OF CGST ACT

Facts of the case - Veira Electronics (P.) Ltd. v. State of U.P - [2024] (Allahabad)

The petitioner was a registered dealer under GST. The

Central Government issued a notification extending the time limit for filing appeal against orders passed under sections 73 and 74 and other provisions till 31-1-2024. The petitioner filed writ petition and contended that the notification was highly discriminatory as it only dealt with orders passed under sections 73 and 74 and did not take into account orders passed under sections 129 and 130.

Decision of the case :

The Honorable High Court noted that this Court is not in a position to issue a writ of mandamus directing the Central Government to include Sections 129 and 130 in the said notification. However, the Court was of the view that the government can very well consider adding these two Sections in the said notification. Therefore, the Court directed the Central Board of Indirect Taxes and Customs to look into this aspect of the matter at the earliest.

HC DIRECTS ASSESSEE TO APPROACH DEPT. SEEKING REDETERMINATION OF INTEREST DEMAND AS PER RETROSPECTIVE AMENDMENT

Facts of the case - Swift Motors v. Superintendent Central Goods & Service tax - [2024] (Rajasthan)

The petitioner, a registered person, was issued notice demanding interest under Section 50 of the Central Goods and Services Tax Act, 2017 (CGST Act). The petitioner was issued notice whereby it was called upon to deposit interest amounting to ₹. 22,94,722/- within a period of three days. It filed writ petition and submitted that in view of the retrospective amendment to Section 50 of the Act, the demand raised by the department requires to be re-determined.



Decision of the case :

- The Honorable High Court noted that during the pendency of the petition, the provisions of Section 50 of the CGST Act, 2017 have undergone change by the Finance Act, 2019, whereby proviso to Section 50 was inserted vide Section 100 of the said Finance Act, 2019. Whereafter, further amendment has taken place by the Finance Act, 2021, wherein by Section 112 of the said Finance Act, 2021, proviso has been given a retrospective effect and has been made applicable w.e.f. 01.07.2017.
- Therefore, the Court disposed of the petition and directed petitioner to approach revenue indicating payable amount and seeking re-determination of demand in line with amended provisions of Section 50.

ADJUDICATING AUTHORITY WAS DIRECTED TO REVISIT ISSUE AFTER TAKING INTO CONSIDERATION GSTR-9C SUBMITTED BY ASSESSEE: HC

Facts of the case - Sanjeevani Gum Udyog v. State of West Bengal - [2024] (Calcutta)

The petitioner was aggrieved by the act of the Adjudicating Authority and the Appellate Authority in passing order without considering the submission made by the petitioner for considering the GSTR-9C which was submitted by it. The petitioner admitted that there has been short deposit of the tax due to inadvertence and mistake was rectified by filing GSTR-9C. It filed writ petition before the High Court.

Decision of the case :

- The Honorable High Court noted that the petitioner relied upon the guidelines issued by the Central Board of Indirect Taxes and Customs dated 7-1-2022 relating to the recovery proceedings. The

guidelines mention that there may be genuine reason for difference between the details of the GSTR-1 and GSTR-3B. In the instant case, the same does not appear to have been considered by any of the authorities.

- Therefore, it was held that the orders passed by the Adjudicating Authority and the Appellate Authority were liable to be set aside and Adjudicating Authority was directed to revisit issue after taking into consideration GSTR-9C submitted by petitioner.

HC DIRECTED GSTN TO ALLOW ASSESSEE TO AMEND GSTR-1 AS THERE WAS NO LOSS OF REVENUE IF SUCH RECTIFICATION WAS PERMITTED

Facts of the case - Railroad Logistics (India) (P.) Ltd. v. Union of India - [2024] (Bombay)

The petitioner was registered under GST Act and it made an inadvertent error in submitting the GST number of Mahindra & Mahindra (Rajasthan) in its form GSTR-1 instead of correct GST number of Mahindra & Mahindra (Orissa). Due to this error, Mahindra & Mahindra (Orissa) received a show cause notice along with form DRC-01. It filed writ petition before the High Court to amend GSTR-1.

Decision of the case :

The Honorable High Court noted that the notice was issued purely on mistake which had happened at petitioner's end in submitting return. It was not a case where any loss of revenue would be caused to government as already tax had been paid. Therefore, the Court noted that rectification should be permitted to the assessee, and the writ petition was disposed of by directing the department to permit petitioner to amend and rectify Form GSTR-1 for the period in question.

DIRECT TAX

INCOME-TAX ACT HAS NO PROVISION TO GRANT REFUND OF RELIEF GRANTED UNDER SECTION 89: HC

Facts of the case - Gurmit Singh Vilku vs. Principal Commissioner of Income-tax - [2024] (Madhya Pradesh)

The assessee was a bank employee and was suspended by the bank in a departmental enquiry. The bank calculated subsistence allowance for the aforesaid period. While paying the subsistence amount, the bank deducted tax (TDS) under section 192 and paid the balance to the assessee.

To claim a refund of the TDS amount deducted by the bank, the assessee filed the return showing nil income. The return was processed without a refund being granted by the Assessing Officer (AO). Later, the assessee filed an application for rectification under section 154, claiming relief under section 89(1). AO passed an order under section 154 allowing relief under section 89 and referred the matter to the Joint Commissioner for approval.

The Joint Commissioner declined to grant relief, stating that the assessee didn't claim section 89 relief in the return filed for the relevant assessment year. Accordingly, no relief could be accepted based on the application filed by the assessee later.

AO passed an order under section 154 and declined to grant the assessee any relief under section 89. On writ petition, the High Court directed the AO to allow section 89 relief and refund the excess tax amount order along with interest.

Being dissatisfied with interest calculation, the assessee filed an instant petition before the High Court. The assessee contended that the principal refundable amount should be equivalent to the amount of relief calculated under section 89(1).

Decision of the case :

- The High Court held that section 192 provides

that any person responsible for paying any income chargeable under the head salary shall, at the time of payment, deduct income tax on the amount payable at the average rate of income tax computed based on rates in force for the financial year in which the payment is made. However, if the pay and allowance paid to the assessee pertain to more than 12 months, relief under section 89 is allowable, and the assessee can claim relief or rebate in tax calculation. The amount of relief or rebate will be adjusted in the amount of tax payable, and the assessee will pay the due amount of tax. If the tax already paid was more than the amount of tax that comes after adjustment of relief, the same will be refunded to the assessee.

- The relief under section 89 is to be considered when calculating the tax payable amount. There is no such provision in the Act to refund the amount of relief granted under section 89 as it is. There may be a situation wherein the assessee may be liable to pay tax even after adjusting/granting relief under section 89. Relief under section 89 is a relief or rebate, not a refund.

NO PENALTY FOR DECLARING GAIN AS LTCG INSTEAD OF STCG IF ENTIRE TAX WAS PAID BEFORE ASSESSMENT ORDER: HC

Facts of the case - Vijay Bhagwandas Raheja vs. Deputy Commissioner of Income-tax - [2024] (Bombay)

The assessee declared the gain arising on the sale of a property as a long-term capital gain. Subsequently, the assessee, having noticed that the gain should have been shown as a short-term capital gain because he had claimed depreciation for the said property in earlier assessment years. He filed a revised computation of total income declaring short-term capital gain and paid the entire capital gain tax thereon.

Considering it to be furnishing of inaccurate particulars



of income, the Assessing Officer (AO) passed the assessment order after the assessee furnished a revised computation of income and levied the penalty upon the assessee under section 271(1)(c).

On appeal, the CIT(A) allowed the assessee's appeal, but the Tribunal reversed it.

The matter then reached before the Bombay High Court.

Decision of the case :

- The High Court relied upon the Supreme Court judgement in CIT v. Reliance Petroproducts (P.) Ltd. [2010] 189 Taxman 322/322 ITR 158, and held that to be covered under the provisions of section 271(1) (c), there has to be concealment of the particulars of the income of the assessee or assessee must have furnished inaccurate particulars of his income. The entire basis is that by initially filing the return of income showing the gain made from the sale of the property as long-term capital gain, the assessee has furnished inaccurate particulars of income.
- Admittedly, the assessee had shown correct sale consideration of the property and the correct cause of depreciation in the return of income, so no income as such has been concealed. The only thing that the assessee did was claim a particular income (capital gain) under a different head, namely, under long-term capital gain as against short-term capital gain.
- No information given in the return was found to be incorrect or inaccurate. The assessment order was passed after the assessee furnished the revised computation of income. It was not as if any statement made or any detail supplied was found to be factually incorrect. Submitting an incorrect claim in the law of long-term capital gain would not be tantamount to furnishing inaccurate particulars.
- The sum and substance of the assessee's case was that he had neither concealed any income nor furnished any incorrect particulars of such income. It was claimed that it was done under the bona fide belief that the asset was a long-term asset as it was held for more than three years. In any event, the entire short-term capital gain was paid even before the assessment order was passed.

- Therefore, such a claim made in the return cannot amount to furnishing inaccurate particulars.

CBDT'S CIRCULAR NOT EXTENDING TIME FOR FILING APPLICATION FOR SEC. 80G APPROVAL FOR NEW TRUST IS ARBITRARY: HC

Facts of the case - Sri Nrisimha Priya Charitable Trust vs. Central Board of Direct Taxes - [2024] (Madras)

The petitioner, a charitable trust, was granted provisional approval under section 80G(5) by filing Form No. 10A. Subsequently, the petitioner applied for regular approval by filing Form No. 10AB. The application was filed beyond the due date as per the provisions of section 80G(5).

The Central Board of Direct Taxes (CBDT) issued a circular extending the due date for filing Form No. 10AB for regular approval under section 80G(5) only for the existing trusts and not new ones.

The petitioners filed a writ petition before the Madras High Court challenging the CBDT's circular.

Decision of the case :

- The High Court held that when the impugned circular was issued, the CBDT stated that the reason was to mitigate genuine hardship faced by the trusts in the digital filing of the respective forms. It was essential to note that the only reason shown for exercising the powers was that these trusts faced hardship since they could not apply on time.
- No discrimination or differentiation was made between the existing trusts and the new trusts at the first instance when the circular was issued. When the reason stated by the Board was to mitigate genuine hardship, no reason whatsoever is mentioned to omit "the clause (i) of the first proviso to sub-section (5) of Section 80G of the Act" in respect of the new trusts applying under Form No. 10AB alone.
- There is no reason whatsoever to leave out the new

trusts with respect to approval under Section 80G alone. The differential treatment is not based on any substantial distinction that is real and pertinent to the object of the circular. The discrimination is artificial.

- The relevant paragraph only reiterated the eligibility of deduction and the amendments made to Section 115TD of the Finance Act, 2023. Thus, the impugned clause of the circular was declared illegitimate, arbitrary, and ultra vires the Constitution of India.

AO CAN'T INSIST UPON DEPOSITING 20% OF DISPUTED DEMAND WITHOUT CONSIDERING UNDUE HARDSHIP OF ASSESSEE: HC

Facts of the case - Sushen Mohan Gupta vs. PCIT - [2024] (Delhi)

Assessee was subjected to a search and seizure operation under section 132 of the Income-tax Act. Notice under section 153A was issued for the relevant assessment year raising demand. The Assessing Officer (AO) passed the assessment order, and the assessee filed an appeal before the CIT(A). During the pendency of the appeal, the assessee filed a stay application before the AO. The AO disposed of the stay application, directing the assessee to deposit 20% of the outstanding demand.

Aggrieved by the order, the assessee filed stay application before the Principal Commissioner of Income Tax (PCIT). PCIT disposed of the stay application by directing the assessee to deposit 40% of the demand.

Aggrieved-assessee filed a writ petition before the Delhi High Court.

Decision of the case :

- The High Court held that the PCIT failed to examine the prima facie merits of the challenge raised with respect to the assessment orders and evaluate the challenge's prima facie merits. The PCIT placed the assessee under a harsher burden of depositing 40%

of the outstanding demand instead of the direction framed by the AO, which had merely insisted upon the assessee depositing 20% as a pre-condition for considering its application for stay.

- Both authorities have failed to deal with prima facie merits, the likelihood of success, and undue hardship. The impugned orders were consequently rendered wholly unsustainable on the aforesaid score alone.
- Accordingly, the writ petition was allowed.

CBDT COULDN'T CONDONE DELAY TO CARRY FORWARD LOSS IF SAME WASN'T EVEN CLAIMED IN ORIGINAL ITR: HC

Facts of the case - Gaurangbhai Chimanbhai Kapadiya v. Union of India - [2024] (Gujarat)

Assessee filed his return of income for the year 2015-16 belatedly under Section 139(4) by declaring a total income of ₹. 3,30,398. The assessee's account was maintained by a part-time unqualified accountant, and though the assessee had incurred a loss of ₹. 2,52,12,010 on account of derivative transactions, the same was not claimed while filing the return of income.

The case of the assessee was selected for scrutiny assessment, and notices under Section 143(2) and 142(1) were issued, and an addition of ₹. 12,708 was made. Assessee filed a return of income for Assessment Year 2016-17, declaring a total income of ₹. 2,09,140. He had earned a profit of ₹. 80,18,157 for Assessment Year 2016-17 on account of derivative transactions and accordingly adjusted the unabsorbed loss amounting to ₹. 2,52,12,010 incurred by him in the Assessment Year 2015-16.

The Assessing Officer (AO) did not allow the carry forward of loss of Assessment Year 2015-16 as the same was not claimed in the return of income and added an amount of ₹. 80,97,138 to the income of the assessee, raising a demand on the said income.



Assessee applied to the CBDT under section 119(2)(b) to condone the delay in claiming the loss he incurred on account of the derivative transactions. The CBDT rejected the application for the delay in filing the return of income for Assessment Year 2015-16.

The matter reached before the Gujarat High Court.

Decision of the case :

- The Gujarat High Court held that Section 139(3) of the Income-tax Act provides for filing a return of income to enable the assessee to carry forward if

the return is filed within time as per Section 139(1). If the assessee made a claim belatedly, the delay in making such claim can be condoned by the AO for the purpose of permitting the assessee to claim the loss so as to carry forward in the next year for set off. Therefore, there was no question to condone the assessee's delay to carry forward such loss.

- Moreover, the assessee also failed to show any hardships, much less any genuine hardship, when filing the return of income for the relevant Assessment Year only. Thus, no interference was called for in the impugned order passed by the AO.

TAX CALENDAR

INDIRECT TAX

Due Date	Returns
April 20th, 2024	GSTR-3B for Tax payers having an aggregate turnover of more than ₹. 5 crores
April 21st, 2024	GSTR-5A for OIDAR service provider
April 22nd, 2024	GSTR-3B for Tax payers having an aggregate turnover upto ₹.5 crores
	GSTR-3B for Tax payers having an aggregate turnover ₹. 5 crores and opted for QRMP scheme
April 25th, 2024	PMT-06: Payment of GST by Registered person opted to file return under QRMP scheme
	ITC-04: Principal sending the goods for Job work
April 28th, 2024	GSTR-11: Persons who have been issued a Unique Identification Number

DIRECT TAX

Due Date	Returns
April 30th, 2024	Due date for furnishing of challan-cum statement in respect of tax deducted under section 194-IA / 194-IB / 194M / 194S in the month of March, 2024
	Due date for deposit of TDS for the period January 2024 to March 2024 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
	Due date for deposit of tax deducted /collected till March, 2024
	Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2023 to March 31, 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

Filing of Return

Handbook on Special Economic Zone and Export Oriented Units

For E-Publications, Please Visit Taxation Portal
<https://icmai.in/TaxationPortal/>



NOTES:



NOTES:

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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