

September, 2024

TAX Bulletin

Volume - 167
02.09.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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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

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



Chairman's Message



CMA Rajendra Singh Bhati
Chairman Direct Taxation Committee

As we are aware the Government is all set to bring in the new Direct Tax Code by the year 2025. The major reforms that are anticipated in this has been the introduction of (i) Simplified Residential Status (ii) Removal of Assessment Year and Previous Year Concepts (iii) Changes in Capital Gains Taxation (iv) Unified Tax Rates for Companies (v) Tax Audit Changes (vi) Simplified Structure to name a few.

The Institute is all driven to contribute positively in this endeavor of the Government and submit meaning suggestions in the compilation of this new draft. For this, mails have also been circulated across all Chapters of the Institute requesting for Input and submitting suggestions on the proposed New and simplified Income Tax Law. The last date of submission would be the 15th September, 2024. Request all the chapters to positively participate in this process.

In the regular activities for September, the most important one had been the conduct of the Examination of all the Taxation Courses. The examination was conducted on 01.09.2024. Almost 70% of the students who appeared in the examination has passed and we wish the students all the best for their future.

The classes are being continued for all the 7 taxation courses named below:

- (i) Certificate Course on GST (Batch – 16)
- (ii) Advanced Certificate Course on GST (Batch – 12)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 9)
- (iv) Certificate Course on International Trade (Batch – 6)
- (v) Certificate Course on TDS (Batch – 12)
- (vi) Certificate Course on Filing of Returns (Batch – 12) and
- (vii) Advanced Course on Income Tax Assessment & Appeals (Batch – 9)

The webinar conducted on 22.08.2024 on the topic, “Gearing up to Tax Audit -2023-24” has also been participated by huge number of members and has been widely appreciated. Apart from this the department is continuing all the regular activities with sincerity. I wish them all the best.

Tank You.

CMA Rajendra Singh Bhati

Chairman – Direct Taxation Committee

The Institute of Cost Accountants of India

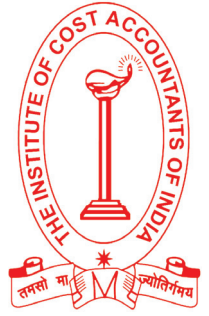
02.09.2024



Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee



The major change in the GST applicable from 1st September, 2024 is the mandatory validation of bank account details in GST registration.

Taxpayers who have not added and validated their bank account details will face a blockage in filing their GSTR-1 or IFF returns. This move ensures that the government has verified bank information for all registered taxpayers, making the system more secure. Without complying, businesses will not be able to submit their returns.

The Government introduced these changes alongside a 10% rise in gross GST collections in August 2024, reaching ₹ 1.75 lakh crore. This growth suggests increased domestic consumption.

The format of return in form GSTR 3B has also been changed to allow disclosure of the adjustment of negative values, which was not permitted earlier. The government had previously clarified that in case of carry forward of negative values, the taxpayers can adjust it in the subsequent return and disclose only net values. However, the taxpayers had to maintain records about the adjustments. Such a disclosure of net values also led to the mismatches between the values disclosed in multiple returns of taxpayers, causing the tax authorities to send communications to taxpayers, asking to explain the differences. The amendment would help in reducing the recordkeeping and the number of mismatch notices.

In this fortnight the exam for all the Taxation Courses were conducted on the 01.09.2024. We wish all the students all the luck for their future and their professional endeavors.

The classes are being continued for all the 7 taxation courses named below:

- (i) Certificate Course on GST (Batch – 16)
- (ii) Advanced Certificate Course on GST (Batch – 12)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 9)
- (iv) Certificate Course on International Trade (Batch – 6)
- (v) Certificate Course on TDS (Batch – 12)
- (vi) Certificate Course on Filing of Returns (Batch – 12) and
- (vii) Advanced Course on Income Tax Assessment & Appeals (Batch – 9)

We wish all the best to Team – TRD for their best efforts.

Thank You.

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

02.09.2024

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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.

Please send the articles to

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

General Concerns discussed in Audit Observations issued to taxpayers under provisions of CGST Act, 2017

P.V.S.VEDA SAMHITHA

ADVOCATE



Everyone is aware of the flocking GST Notices and Orders that are being issued to the taxpayers in these days. The taxpayers are obligated to issue their financially audited books of accounts along with the IT returns as necessary. Upon verification of the same, the queries are raised by the respective authorities vide the Audit Observations asking for clarifications on various issues. Some issues are discussed as under:

- a. GST attracting RCM on Miscellaneous Expenses
- b. GSTR 3B Vs 2A
- c. ITC mismatch between the Supplier and Purchaser
- d. GST implications w.r.t CC in real estate sector
- e. GST on foreign expenses

These issues usually include the discrepancies as stated above with given elucidation as:

- a. It usually includes the Miscellaneous Expenses or the other expenses which are reported in the financial statements and the necessary GST implications on such Miscellaneous or other expenses. They seek for documents including the ledger copy, sample invoices in such case.
- b. It usually includes the mismatch of the ITC reported in GSTR-3B and the GSTR-2A seeking for the invoices, reconciliation on monthly basis and some declaration of CA if necessary
- c. In case the ITC reported by the Supplier does not reflect in the GSTR-2A table of the purchaser, the reversal of ITC is being demanded along with the

back up documents. This issue also includes the issues like absconding of the Supplier or whose registrations have been cancelled retrospectively though they are active at the time of purchases and bonafide .

- d. The details of the GST implications are being questioned in case of the real estate based companies, pertaining to the issuance of CC (Completion Certificate) and the discharge of the GST tax liability along with the CC and the respective documents.
- e. In such a case, the GST implications on the foreign expenses spent is shown as discrepancy seeking the discharge of liability, documents including the invoices as necessary.

With reference to the above points, the replies are curated by taxpayer's consultants or their auditors respectively in this regard vide the respective format including their contentions which may include as follows:

- a. The stated miscellaneous/other expenses are the expenses which are not categorized in the specific expenses which includes the printing stationery, refreshment and other petty expenses and the GST implications of the same. In case of all the above, the purchases include the tax liability and the invoice values usually show the details of such taxability . The backup documents

include the ledger extracts of the expenses along with the Invoices.

- b. The stated mismatch of the ITC may arise due to various reasons which can be identified by the line-wise reconciliation of the ITC claim made on the respective goods and services. Sometimes, the notice amounts includes the ineligible ITC which are to be adjusted at later point of time. Hence, with reference to the Section 16(2) and 17 of the CGST Act,2017, along with the reconciliation statement and the respective invoices, a declaration from the supplier or the CA is submitted accordingly with reference to the CBIC Circular stating the clarification on mismatch of ITC vide (183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17th July 2023).
- c. The mismatch of ITC in this regard read with the provisions of the Section 16(2) of the CGST Act,2017 read along with the Rule 36(4) of the CGST Rules,2017 caters the need for availment of such ITC irrespective of whether the Supplier has reported vide the GST returns. However, such liability must be recovered from the Supplier and not the purchaser being them bonafide in nature. However, the authorities in case of such failure to recover from supplier, seek the purchaser for the same. There are many case laws in this regard which can be relied upon. Also, the respective documents includes the invoice copies, e-waybill, payment through banking channel details, toll plaza receipts/fasttag details, consignment note, weighment slip, freight payment details, ITC register showing the transactions and the fulfillment of the conditions as laid down in Section 16(2) of the CGST Act,2017.
- d. This issue has been uniform by nature as the department has been issuing to the taxpayers without considering the financial year as such pertaining to the tax liability as referred in Section 7 of the CGST Act,2017 covering the supply of the immovable property along with the new and old scheme given with effect from 01.04.2019 by the CBIC. Wherein the taxability of such sale of the property is given different in both the schemes with reference to the issuance

of the occupancy or completion certificate. The certificate along with agreement copies are produced in this regard.

- e. The foreign expenses usually includes the travel, food and other expenses spent abroad which do not attract the provisions of the CGST Act,2017. Hence, apart from the flight charges no other transactions attract the provisions hence the necessary travel bills and restaurant bills are produced along with the ledger extract as reported in the financial statements.

In connection to the same, the GST Department are issuing the notices with issues as above without due verification of the Financial Statements. Also, instead of issuing notice on the name of seeking documents, they are raising objections on the above points along with imposing the interest and penalty for the discrepancies in this regard. Apart from the above, improper allowance of time period for submission of the reply and the documents leading to the violation of principles of natural justice along with the audit manual issued by the respective state tax departments.

Hence the same has become challenge for the consultants and the taxpayers to collate with the documents and proceed with the respective replies accordingly. Additionally, numerous legal violations contribute to the complexity of the proceedings". Hence, there is a large necessity for the department and CBIC to look upon the issues in the way to cater the needs per se introducing of Audit manual is not sufficient also the implementation should be made necessary and trainings may be provided to the officers. Rather, the issues or the discrepancies should be precise, specific with proper backup showing such discrepancy which not only helps the department but also the taxpayers.

Note: pertaining to the point of GSTR-3B vs GSTR-2A :This discrepancy has various categories hence the general way is discussed accordingly.



“Advance Pricing Agreements in India: Key Insights and Implications”

CMA Ashwin Sharma BS

Senior Manager (Tax) at a leading Global Bank with operations in India



Abstract

This article examines India's Advance Pricing Agreement (APA) program, a critical tool for multinational companies managing transfer pricing complexities. It outlines the APA process, its benefits, and challenges, highlighting the program's role in fostering a stable tax environment. The article analyzes the surge in APA applications and the government's commitment to strengthening the program to attract foreign investment and ensure tax compliance.

Introduction:

Advance Pricing Agreements have become an increasingly important tool for multinational companies operating in India, as they seek to establish certainty and transparency in their transfer pricing arrangements. India's economy has witnessed remarkable growth in recent years, attracting significant foreign direct investment across various sectors. This influx of investment has led to a surge in cross-border transactions between multinational enterprises and their Indian subsidiaries or affiliates, underscoring the need for effective transfer pricing mechanisms to ensure compliance and minimize tax-related disputes. Advance Pricing Agreements have emerged as a valuable tool in this regard, offering multinational companies the opportunity to pre-determine the appropriate transfer pricing methodology and the resulting prices for their intra-group transactions.

1. The APA Process in India

The Advance Pricing Agreement (APA) process

in India offers taxpayers a mechanism to achieve tax certainty and mitigate transfer pricing disputes. This collaborative process involves both the taxpayer and the tax authorities

Initiation and Overview

The APA journey commences when a taxpayer submits a formal application to the tax department. A specialized team within the department meticulously reviews the application. The legal framework for APAs in India was established through the Finance Act, 2012, with the introduction of sections 92CC and 92CD in the Income-tax Act, 1961. These provisions authorized the Central Board of Direct Taxes (CBDT) to enter into APAs with taxpayers for a maximum of five years. The agreements primarily focus on international transactions between Associated Enterprises (AEs) and determine the Arm's Length Price (ALP) or the methodology for its calculation.

Rollback Provisions

A significant aspect of the Indian APA program is the inclusion of rollback provisions. Introduced in 2014, these provisions permit the application of the agreed ALP or methodology retroactively for up to four years prior to the APA's

commencement. This extension offers taxpayers transfer pricing certainty for a maximum of nine years. To address common queries related to rollback, the CBDT issued Circular No. 10 of 2015.

2. *Types of APAs*

There are primarily three types of APAs:

- ▶ **Unilateral APA (UAPA):** Involves a taxpayer and the tax authorities of its home country, providing certainty regarding the transfer pricing methodology applicable to the taxpayer's controlled transactions within the home country.
- ▶ **Bilateral APA (BAPA):** Involves the tax authorities of two countries, resolving transfer pricing disputes between associated enterprises located in those countries, and offering tax certainty in both countries.
- ▶ **Multilateral APA (MAPA):** Involves the tax authorities of three or more countries, resolving transfer pricing disputes across multiple jurisdictions, and offering tax certainty in all participating countries. These are typically more complex to negotiate and implement due to the involvement of multiple parties

3. *Benefits of APAs in India*

- ▶ **Tax Certainty:** APAs provide taxpayers with certainty about the tax treatment of their controlled transactions, reducing the risk of future disputes with the tax authorities.
- ▶ **Reduced Litigation:** By establishing a pre-agreed pricing methodology, APAs can significantly reduce the chances of transfer pricing litigation, saving time and money for both taxpayers and the tax authorities.
- ▶ **Improved Cash Flow:** Knowing the transfer pricing outcome in advance allows for better cash flow management and reduces the need for provisions for potential tax adjustments.

- **Enhanced Business Relationships:** APAs can foster a more collaborative relationship between taxpayers and the tax authorities, leading to improved communication and efficiency

4. *Process of Filing APA*

- ▶ **Filing of Pre-Filing Consultation Application:** Submit a pre-filing consultation request to the appropriate tax authority, including necessary details like the proposed covered transaction, transfer pricing issues, and other relevant information.
- ▶ **Pre-Filing Consultation:** Engage in discussions with the tax authority to understand the APA process, clarify doubts, and determine the scope of the APA.
- ▶ **Payment of Fees:** Pay the prescribed fees for the pre-filing consultation and the APA application as per the guidelines set by the tax authority.
- ▶ **Filing of APA Application:** Prepare and submit the APA application, including detailed information on transactions, transfer pricing methodologies, and financial data, along with all supporting documents required by the tax authority.
- ▶ **Processing of APA Application:** The tax authority reviews the application and may request additional information or clarification. Engage in discussions and negotiations to reach a mutual agreement on the transfer pricing methodology.
- ▶ **Withdrawal of APA Application:** If necessary, formally withdraw the APA application by notifying the tax authority, following the prescribed procedure, including any potential forfeiture of fees paid.
- ▶ **Terms and Conditions of APA:** Finalize the terms and conditions of the APA, including the agreed transfer pricing methodology, covered transactions, and the duration of the agreement. Both parties sign the APA document to formalize the agreement.



- ▶ **Filing of Annual Compliance Report:** Prepare and file an annual compliance report demonstrating adherence to the terms of the APA, including relevant financial data and analysis supporting compliance.
- ▶ **Compliance Audit:** The tax authority conducts periodic audits to ensure compliance with the APA terms, requiring all necessary documentation and explanations during the audit.
- ▶ **Revision, Cancellation, and Renewal of APA:** Request revisions to the APA if there are significant changes in business operations or economic conditions. The tax authority may cancel the APA in case of non-compliance or misrepresentation. Apply for renewal of the APA before its expiration, following the same procedure as the initial application.

5. An Overview of Its Structure and Processes

The Indian Advance Pricing Agreement (APA) programme is designed to provide clarity and certainty in transfer pricing arrangements, offering two types of agreements: bilateral and unilateral. Bilateral APAs involve both the Central Board of Direct Taxes (CBDT) and the tax authorities of another country, while unilateral APAs involve only the CBDT.

Structure and Supervision

The processing and analysis of APA applications are handled by specialized APA teams under the overall supervision of the Principal Chief Commissioner of Income Tax (International Taxation) in New Delhi. Each team is led by a Commissioner of Income Tax and includes Additional/Joint Commissioners and Deputy/Assistant Commissioners of Income Tax. Currently, there are four APA teams based in Delhi, Mumbai, and Bengaluru, with a new team established in Gurugram to further streamline the APA processing.

Unilateral APAs (UAPAs)

For unilateral APAs, the process begins with the APA teams developing position papers. These papers are approved by the Principal Chief Commissioner of Income Tax (International Taxation) in New Delhi and forwarded to the CBDT for final approval. Within the CBDT, officers from the Foreign Tax & Tax Research (FT & TR-I and II) Divisions review and process these papers. The Joint Secretaries of FT & TR-I and FT & TR-II then further examine and process the papers before submitting them for final approval by the designated Member of the CBDT. This Member approves the final negotiating position to be adopted by the APA teams. Once negotiations are complete, a draft agreement is sent to the CBDT for approval, and subsequently, the agreement is formalized between the CBDT and the taxpayer.

Bilateral APAs (BAPAs)

For bilateral APAs, the position papers are sent to the FT & TR-I & II Divisions by the Principal Chief Commissioner of Income Tax (International Taxation). The Competent Authority of India (either Joint Secretary, FT & TR-I or Joint Secretary, FT & TR-II, depending on the country involved) initiates discussions with their counterpart in the other country. Officers in the FT & TR Division of the CBDT, working with the Competent Authority, examine the position paper and prepare India's stance, which is then shared with the Competent Authority of the other country. The Competent Authorities of both countries discuss and negotiate the APA terms. If a mutual understanding is reached, a Mutual Agreement is drawn up, containing the APA's terms and conditions. Each country then typically enters into an agreement with its respective taxpayer. On the Indian side, the Mutual Agreement is shared with the taxpayer, and their concurrence is sought within 30 days. Upon the taxpayer's agreement, a draft agreement is prepared in consultation with the taxpayer and submitted for the approval of the designated Member in the CBDT.

Execution of Agreements

For both unilateral and bilateral APAs, the agreements are ultimately executed by either the Joint Secretary, FT & TR-I or Joint Secretary, FT & TR-II (the two Competent Authorities of India) with the taxpayer, on behalf of the CBDT. This structured process ensures that the APAs are meticulously reviewed, negotiated, and finalized, providing clarity and certainty for both taxpayers and the tax authorities.

6. Nature of Covered Transactions

APAs in India can encompass a broad spectrum of controlled transactions. Some of these transactions include:

- ▶ Reimbursement/Recovery of expenses
- ▶ Provision of Information Technology enabled Services (ITeS)
- ▶ Trade receivables and payables
- ▶ Provision of Software Development Services
- ▶ Other closely linked transactions
- ▶ Purchase of fixed assets
- ▶ Receivables/payables
- ▶ Deemed international transactions under Section 92B(2)
- ▶ Import of raw material, components, and sub-assemblies for manufacturing/assembling of network equipment
- ▶ Provision of Support Services
- ▶ Payment of Royalty
- ▶ Provision of Information Technology services

7. Record APA Signings by CBDT in FY 2023-24

The CBDT achieved a record by entering into 125 APAs with Indian taxpayers during the fiscal year 2023-24, including 86 Unilateral APAs (UAPAs)

and 39 Bilateral APAs (BAPAs). This represents a significant 31% increase compared to the 95 APAs signed in the preceding financial year. As a result, the total number of APAs signed since the programme's launch has now reached 641, comprising 506 UAPAs and 135 BAPAs. Notably, FY 2023-24 also saw the CBDT signing the maximum number of BAPAs in any financial year to date, with mutual agreements involving Australia, Canada, Denmark, Japan, Singapore, the UK and the US.

8. Challenges Faced by Taxpayers in the APA Process

Despite the benefits, taxpayers often encounter several challenges during the APA process:

- ▶ Time Consumption: The APA process can be time-consuming, requiring significant resources and manpower.
- ▶ Documentation Burden: Preparing comprehensive and accurate documentation is often a daunting task.
- ▶ Uncertainty of Outcome: There is no guarantee of an APA being granted, which can create uncertainty for taxpayers.
- ▶ Confidentiality Concerns: Taxpayers may have concerns about disclosing sensitive business information during the APA process.
- ▶ Ongoing Compliance: Maintaining compliance with the terms of the APA throughout the agreed-upon period can be challenging.

9. Key Points to Consider When Deciding Whether to Pursue an APA

When deciding whether to apply for an APA, taxpayers should consider the following key points:

- ▶ Ongoing and Expensive Audit History: If the taxpayer has a history of frequent and costly audits, an APA might provide more certainty and reduce audit-related expenses.



- ▶ **Complex Nature of Transactions:** Complex transactions, especially those involving multiple jurisdictions or intricate transfer pricing issues, may benefit from the clarity provided by an APA.
- ▶ **Stability of Facts:** If the business facts and conditions are expected to remain stable over the next few years, an APA can provide long-term certainty.
- ▶ **New Transactions:** New transactions that may give rise to potential litigation could be better managed with the predictability of an APA.
- ▶ **Business Restructuring and Intangible Transactions:** Transactions involving business restructuring, intangibles, or financial transactions can be particularly challenging and may benefit from the certainty offered by an APA.

Conclusion

The Indian APA programme is a key initiative by the CBDT to enhance the ease of doing business in India and provide tax certainty to taxpayers. Since its launch in July 2012, the APA programme has effectively resolved numerous complex transfer pricing issues

that would otherwise result in prolonged and costly litigation. This programme has benefited both taxpayers and the government. Taxpayers gain certainty over transfer pricing issues for five to nine years, depending on rollback provisions, while the government can allocate resources more efficiently towards productive audits and procedures.

Furthermore, APAs benefit the government by securing tax revenues from multinational enterprises based on agreed terms. While revenue generation is not the primary goal of the Indian APA programme, it has led to assured revenues for the Government of India. According to the APA annual report by the CBDT in September 2023, for FY 2022-2023, the 516 signed APAs finalized the taxation of approximately ₹. 19,000 crore in income, resulting in about ₹. 7,000 crore in tax payments. This revenue is free from litigation and appellate proceedings.

The APA programme's success has fostered a positive economic environment for multinationals in India. The government remains committed to enhancing the programme's effectiveness by providing adequate resources, ensuring ongoing support for a stable and predictable tax framework.

1. Reference-<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2018085>
2. APA annual report- 2022-23 issued by CBDT.



PRESS RELEASE

Monthly Review of Accounts of Government of India upto the month of July 2024 (FY2024-25)

Posted On: 30 AUG 2024 5:15PM by PIB Delhi

The Monthly Accounts of the Government of India upto the month of July 2024 has been consolidated and reports published. The highlights are given below: -

The Government of India has received ₹10,23,406 crore (31.9% of corresponding BE 2024-25 of Total Receipts) upto July, 2024 comprising ₹7,15,224 crore Tax Revenue (Net to Centre), ₹3,01,796 crore of Non-Tax Revenue and ₹6,386 crore of Non-Debt Capital Receipts. ₹3,66,630 crore has been transferred to State Governments as Devolution of Share of Taxes by Government of India upto this period which is ₹57,109 crore higher than the previous year.

Total Expenditure incurred by Government of India is ₹13,00,351 crore (27.0% of corresponding BE 2024-25), out of which ₹10,39,091 crore is on Revenue Account and ₹2,61,260 crore is on Capital Account. Out of the Total Revenue Expenditure, ₹3,27,887 crore is on account of Interest Payments and ₹1,25,639 crore is on account of Major Subsidies.



NOTIFICATIONS

INDIRECT TAX

CUSTOMS (NON-TARIFF)

Notification No. 55/2024 – Customs (N.T.)

New Delhi, the 23rd August, 2024.

G.S.R..... (E). – In exercise of the powers conferred by section 75 of the Customs Act, 1962 (52 of 1962) and sub-section (2) of section 37 of the Central Excise Act, 1944 (1 of 1944), read with rules 3 and 4 of the Customs and Central Excise Duties Drawback Rules, 2017, the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 77/2023 – Customs (N.T.), dated the 20th October, 2023, published vide number G.S.R. 792 (E), dated the 20th October, 2023, namely:-

In the said notification, in the Schedule, in Chapter -71,-

- (i) against tariff item 711301, in the entry in column (4), for the figures “704.1”, the figures “335.50” shall be substituted;
- (ii) against tariff item 711302, in the entry in column (4), for the figures “8949”, the figures “4468.10” shall be substituted;

- (iii) against tariff item 711401, in the entry in column (4), for the figures “8949”, the figures “4468.10” shall be substituted.

[No. 605/13/2023-(DBK)]

Notification No. 56 /2024-CUSTOMS (N.T.)

New Delhi, 30th August, 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 | 949 |
| 2 | 1511 90 10 | RBD Palm Oil | 960 |
| 3 | 1511 90 90 | Others – Palm Oil | 955 |
| 4 | 1511 10 00 | Crude Palmolein | 965 |
| 5 | 1511 90 20 | RBD Palmolein | 968 |

| Sl. No. | Chapter/ heading / sub-heading / tariff item | Description of goods | Tariff value (US \$Per Metric Tonne) |
|---------|--|--------------------------|--------------------------------------|
| (1) | (2) | (3) | (4) |
| 6 | 1511 90 90 | Others – Palmolein | 967 |
| 7 | 1507 10 00 | Crude Soya bean Oil | 983 |
| 8 | 7404 00 22 | Brass Scrap (all grades) | 5224 |

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 | 810 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 | 960 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> | 960 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> | 810 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 | 6868(i.e., no change)” |

2. This notification shall come into force with effect from the 31st day of August, 2024.

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

Notification No. 57/2024-Customs (N.T.)

New Delhi, dated 31 August, 2024

G.S.R. (E). - In exercise of the powers conferred by section 157, read with sections 30, 30A, 41, 41A, 53, 54, 56, sub-section (3) of section 98 and sub-section (2) of section 158 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following regulations further to amend the Sea Cargo Manifest and Transshipment Regulations, 2018, namely: -

1. Short title and commencement -

- (1) These regulations may be called the Sea Cargo Manifest and Transshipment (Third Amendment) Regulations, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Sea Cargo Manifest and Transshipment Regulations, 2018, -

- (i) In regulation IS, in sub-regulation (2), for the words, figures and letters, “till 31st August, 2024”, the words, figures and letters, “till the date mentioned in column (3) of the table below for the Customs Ports mentioned in the column (2) of the said table.” Shall be substituted.
- (ii) after Form-XII, the following table shall be inserted, namely: -

Table

[Refer Regulation 14(2)]

| Sr. No. | Customs Ports | Date till which the transitional provisions are applicable |
|---------|--|--|
| (1) | (2) | (3) |
| 1. | Mormugao (INMRM1) | 10.09.2024 |
| 2. | Mangalore (IN NM L1) | 30.09.2024 |
| 3. | Mumbai (INBOM 1) and Kandla (INIXY1) | IS. 10.2024 |
| 4. | Tuticorin (INTUTI) and Vishakhapatnam (INVTZ1) | 31.10.2024 |
| 5. | Ennore (INENRI), Kattupalli (INKAT 1) and Cochin (INCOKI) | 1S.11.2024 |
| 6. | All the Customs Ports other than mentioned at Sr. No. 1 to 5 above | 30.11.2024 |

[F. No. 450/58/2015- Cus-IV(Pt. D)]

CUSTOMS (ANTI-DUMPING DUTY)

NOTIFICATION No. 15/2024-Customs (ADD)

New Delhi, the 23rd August, 2024

G.S.R...(E).- Whereas, the designated authority, vide notification number 7/28/2023- DGTR, dated the 29th December, 2023, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th December, 2023, initiated the review in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), read with rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in the matter of continuation of anti-dumping duty on imports of “Chlorinated Polyvinyl Chloride Resin (CPVC)-whether or not further processed into compound” (hereinafter referred to as the subject goods) falling under heading 3904 of the First Schedule to the Customs Tariff Act, originating in or exported from China PR and Korea RP (hereinafter referred to as the subject countries), imposed vide notification of the Government of India, Ministry of Finance (Department of Revenue) number 05/2020-Customs (ADD), dated the 7th March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 164(E), dated the 7th March, 2020;

And whereas, in the matter of review of anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, the designated authority in its final findings, vide notification number 7/28/2023-DGTR, dated the 25th May, 2024, published in the Gazette of India, Extraordinary, Part-I, Section 1, dated the 27th May, 2024, has come to the conclusion that-

- (i) the subject goods continue to be exported to India at prices below the normal value, resulting into dumping of the subject goods;
- (ii) dumped imports from subject countries are causing injury to the domestic industry;

- (iii) there is likelihood of dumping and likelihood of injury from the subject countries in an event of expiry of measures and if the anti-dumping measures are not modified,

and has recommended continued imposition of the anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18, 20 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 and in supersession of the notification of the Government of India, Ministry of Finance (Department of Revenue), number 05/2020-Customs (ADD), dated the 7th March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 164(E), dated the 7th March, 2020, except as respects things done or omitted to be done before such supersession, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), of specification as specified in the corresponding entry in column (7), an anti-dumping duty at the rate equal to the amount as indicated in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (10), of the said Table, namely :-



TABLE

| S. No. | Tariff item | Description of goods | Country of origin | Country of export | Producer | Specification | Amount | Currency | Unit of measurement |
|--------|-------------|----------------------|-------------------|-------------------|-------------|---------------|--------|----------|---------------------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| 1 | 39041010 | Chlorinated | China | Any | Any | CPVC resin | 790 | USD | MT |
| | 39041020 | Polyvinyl | PR | country | | | | | |
| | 39041090 | Chloride | | including | | | | | |
| | 39042100 | (CPVC) - | China | China | | | | | |
| | 39042200 | whether or | PR | PR | | | | | |
| 2 | 39043090 | not further | China | Any | Any | CPVC | 605 | USD | MT |
| | 39044000 | processed | PR | country | | | | | |
| | 39045090 | into | | including | | | | | |
| | 39046990 | compound | China | China | | | | | |
| | 39049010 | | PR | PR | | | | | |
| 3 | | | Any | China | Any | CPVC resin | 790 | USD | MT |
| | | | country | PR | | | | | |
| 4 | | | other | | Any | CPVC | 605 | USD | MT |
| | | | than | China | | | | | |
| 5 | | | China | | Hanwha | CPVC | 593 | USD | MT |
| | | | PR and | Any | | | | | |
| | | | Korea | Any | Solutions | resin | | | |
| | | | RP | country | Corporation | | | | |
| | | | | including | | | | | |
| | | | | Korea | | | | | |
| | | | | RP | | | | | |



| S. No. | Tariff item | Description of goods | Country of origin | Country of export | Producer | Specification | Amount | Currency | Unit of measurement |
|--------|-------------|----------------------|--|--------------------------------|---|---------------|--------|----------|---------------------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| 6 | | | Korea RP | Any country including Korea RP | Hanwha Solutions Corporation | CPVC compound | 792 | USD | MT |
| 7 | | | Korea RP | Any country including Korea RP | Any producer other than mentioned above | CPVC resin | 593 | USD | MT |
| 8 | | | Korea RP | Any country including Korea RP | Any producer other than mentioned above | CPVC compound | 792 | USD | MT |
| 9 | | | Any country other than China PR and Korea RP | Korea RP | Any | CPVC resin | 593 | USD | MT |
| 10 | | | Any country other than China PR and Korea RP | Korea RP | Any | CPVC compound | 792 | USD | MT |



Note:— Customs classification is indicative only and not binding on the scope of the product under consideration. If the product is imported in any other code, the same is liable to anti-dumping duty.

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

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

[F. No. CBIC-190354/117/2024-TRU Section-CBEC]

CENTRAL EXCISE (TARIFF)

Notification No. 21/2024-Central Excise

New Delhi, the 30th August, 2024

G.S.R.....(E).—In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of the Finance Act, 2002 (20 of 2002), 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. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 584 (E), dated the 19th July, 2022, namely:-

In the said notification, in the Table, -

- against S. No. 1, for the entry in column (4), the entry “₹. 1850 per tonne” shall be substituted;
- This notification shall come into force on the 31st day of August, 2024.

[F. No. 354/15/2022-TRU]

| (1) | (2) | (3) | (4) |
|-----|------|--|-----------------|
| “3. | 2710 | Aviation Turbine Fuel, when cleared for export to Bhutan | Nil per litre”. |

- This notification shall come into force on the 3rd day of September, 2024.

[F. No190354/257/2023-TRU]

Notification No. 22/2024-Central Excise

New Delhi, the 2nd September, 2024

G.S.R.....(E).—In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of the Finance Act, 2002 (20 of 2002), 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. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 584 (E), dated the 19th July, 2022, namely:-

In the said notification, in the Table, -

- against S. No. 2, for the entry in column (3), the entry “Aviation Turbine Fuel, when cleared for export to countries other than Bhutan” shall be substituted;
- after S. No. 2 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

Notification No. 23/2024-Central Excise

New Delhi, the 2nd September, 2024

G.S.R (E). - In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of Finance Act, 2002 (20 of 2002), 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. 04/2022-Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number

G.S.R. 492 (E), dated the 30th June, 2022, namely:- In the said notification,-

(a) in the Table,-

- (i) against S. No. 1, for the entry in column (3), the entry “Motor spirit, commonly known as petrol, when cleared for export to countries other than Bhutan” shall be substituted;
- (ii) after S. No. 1 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

| (1) | (2) | (3) | (4) |
|-----|------|---|-----------------|
| “1A | 2710 | Motor spirit, commonly known as petrol, when cleared for export to Bhutan | Nil per litre”; |

- (iii) against S. No. 2, for the entry in column (3), the entry “High speed diesel oil, when cleared for export to countries other than Bhutan” shall be substituted;

- (iv) after S. No. 2 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

| (1) | (2) | (3) | (4) |
|-----|------|--|-----------------|
| “3 | 2710 | High speed diesel oil, when cleared for export to Bhutan | Nil per litre”; |

(b) paragraph 2 shall be omitted.

3. This notification shall come into force on the 3rd September, 2024.

[F. No. 190354/257/2023-TRU]

Notification No. 24/2024-Central Excise

New Delhi, the 2nd September, 2024

G.S.R (E). - In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 112 of Finance Act, 2018 (13 of 2018), 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. 10/2022-Central Excise,

dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 498(E), dated the 30th June, 2022, namely:-

In the said notification,-

(a) in the Table,-

- (i) against S. No. 1, for the entry in column (3), the entry “Motor spirit, commonly known as petrol, when cleared for export to countries other than Bhutan” shall be substituted;



(ii) after S. No. 1 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

| (1) | (2) | (3) | (4) |
|-----|------|---|-----------------|
| “1A | 2710 | Motor spirit, commonly known as petrol, when cleared for export to Bhutan | Nil per litre”; |

(iii) against S. No. 2, for the entry in column (3), the entry “High speed diesel oil, when cleared for export to countries other than Bhutan” shall be substituted;

(iv) after S. No. 2 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

| (1) | (2) | (3) | (4) |
|-----|------|--|-----------------|
| “3 | 2710 | High speed diesel oil, when cleared for export to Bhutan | Nil per litre”; |

(b) paragraph 2 shall be omitted.

2. This notification shall come into force on the 3rd September, 2024.

[F. No. 190354/257/2023-TRU]

CIRCULARS

CUSTOMS

Circular No. 11/2024-Customs

F.No. 450/28/2016-Cus-IV

Dated: 25th August, 2024

Subject: Implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 in respect of EOUs with effect from 01.09.2024 – reg.

Reference is drawn to the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 (hereinafter referred to as IGCRS Rules, 2022) notified vide Notification No.74/2022-Customs (N.T.) dated 09.09.2022.

- 1.1 Further, in terms of Notification No.52/2003-Customs dated 31.03.2003, as amended, EOUs shall follow the procedure prescribed under rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, for import of goods. Accordingly, existing customs clearance processes for EOUs are to be replaced by IGCR procedures.
- 1.2 In this regard, reference is also drawn to the para 6.4 of the Circular No.04/2022- Customs dated 27.02.2022, wherein, it was stated that the system architecture with respect to above rule in respect of EOUs is under development. The same shall be implemented in due course. Till such date, EOUs may follow the existing procedure for import of goods in lieu of generating IGCR Identification Number (IIN) in the system.
3. Now, that, necessary developments have since been completed on the System to allow clearances to EOUs under IGCR, all EOUs would be required to obtain IGCR Identification Number (IIN) at ICEGATE portal, and also register their IGCR bond for filing a bill of entry with IGCR benefit. Once this module is activated, the same

process would be used for clearances from SEZ to EOUs, as well.

4. It is decided to implement the automation in the IGCRS Rules, 2022, in respect of EOUs with effect from 01.09.2024. Accordingly, all EOUs may obtain IGCR Identification Number (IIN) at ICEGATE portal by registering immediately as the SEZ Unit becomes ICEGATE enabled.
5. Suitable Public Notices may please be issued to guide the trade/industry. The trade should be proactively assisted during the transition period keeping in view the resolve to provide an enabling environment for manufacturing. Standing Orders may be issued for the officers and staff. Difficulty, if any, faced in the implementation may be brought to the notice of Board immediately to the email of dircus@nic.in.

Circular No. 12/2024-Customs

F. No. 450/58/2015-Cus.IV(Pt.I)

Dated the 31st August, 2024

Subject: Implementation of the Sea Cargo Manifest and Transshipment Regulations (SCMTR)-reg.

Madam/Sir,

Kind attention is invited to the Notification No. 57/2024-Customs (N.T.) dated 31st August, 2024 vide which phase-wise implementation of the Sea Cargo Manifest and Transshipment Regulations (SCMTR) has been notified.

2. The SCMTR seeks to bring about transparency, predictability of movement, advance collection of information for expeditious risk-based Customs clearance. The regulations stipulate the obligations, the roles and responsibilities, for the various stakeholders involved in the movement



of imported/exported goods. The regulations also specify the changes to the formats and timelines for filing the manifest declarations. Board Circular No. 43/2020- Customs dated 30th September, 2020 has elaborated more on the above aspects.

3. As the transitional provision under Regulation 15 (2), the old formats have continued to be

accepted, thereby giving sufficient time for complying with the new formats in a phased manner.

4. It has now been decided by the Board to implement SCMTR in a phased manner in terms of the Notification No. 57/2024-Customs (N.T.) dated 31st August, 2024. Implementation of the SCMTR at different ports shall be as follows:

| Sr. No. | Customs Ports | Date of Implementation of SCMTR filing in new format |
|---------|--|--|
| (1) | (2) | (3) |
| 1. | Mormugao (INMRM1) | 11.09.2024 |
| 2. | Mangalore (INNML1) | 01.10.2024 |
| 3. | Mumbai (INBOM1) and Kandla (INIXY1) | 16.10.2024 |
| 4. | Tuticorin (INTUT1) and Vishakhapatnam (INVTZ1) | 01.11.2024 |
| 5. | Ennore (INENR1), Kattupalli (INKAT1) and Cochin (INCOK1) | 16.11.2024 |
| 6. | All the Customs Ports other than mentioned at Sr. No. 1 to 5 above | 01.12.2024 |

As per the dates mentioned in column no. (3) of the table above, filing only in the new format as per SCMTR will become mandatory. Therefore, the stakeholders are advised to start filing immediately in the new format on a parallel basis on priority, as failure of the same may negatively impact the cargo clearance times for those consignments after the same becomes mandatory on effective date.

5. The Chief Commissioners of Customs are requested to closely monitor the progress of

implementation of the roll-out of SCMTR for the ports coming under their jurisdiction.

6. This Circular may be given wide publicity by issue of suitable Trade Notice/Public Notice. The Officers under your jurisdiction may be sensitized to handhold the stakeholders for filing in the format under SCMTR and be at readiness at the end of this extension. Difficulties, if any, in the implementation of the above Circular may be brought to the notice of the Board.

JUDGEMENT

INDIRECT TAX

GST authorities to serve at least another notice through other modes if reply to notice sent on email not received: HC

Facts of the case - Sakthi Steel Trading v. Assistant Commissioner (ST) - [2024] (Madras)

In the present case, the petitioner filed writ petition against the assessment order passed by the GST department and contended that it was unaware of the notice since it was sent by the department on the email and it was not checked by the petitioner. It was also argued that the petitioner didn't get opportunity to give reply.

Decision of the case :

- The Honorable High Court noted that although there is advancement in the technology and Section 169(1)(c) has statutorily recognized communication through e-mail, all men of commerce from the business community particularly small traders, small service provider and small manufacturers may not be ready to receive and respond. Unless, they have a dedicated team of persons handling their e-mails accounts, they may not even notice receipt of any notice, notification, and summons in their e-mail.
- The Court further noted that if, notice sent to designated/registered email ID's as is contemplated in Section 169(1)(c) is not responded by an assessee, it would be incumbent on the part of the department to serve atleast another notice once through any of the other modes of service of notice prescribed under Section 169(1) so as to ensure there communication and there is no violation of principles of natural justice.

- Therefore, the Court held that under these circumstances, the impugned order was set aside and the case was remitted back to pass a fresh order on merits in accordance with law preferably within a period of 45 days from date of receipt of this order. The Court also directed the petitioner to file a reply to the notice positively within a period of 30 days from date of receipt of this order.

No retrospective cancellation of GST registration of deceased person without any non-compliance on record: HC

Facts of the case - R. Trading Co. v. Commissioner of Delhi Goods and Services Tax - [2024] (Delhi)

The assessee was registered under CGST Act, 2017 and he had passed away in April 2021. The GST authorities cancelled his GST registration retrospectively with effect from 1st July 2017 for non-filing of returns after his death. The legal heir of deceased assessee filed a writ petition to quash the show cause notice and the order cancelling the registration.

Decision of the case :

- The Honorable High Court noted that the GST registration cannot be cancelled with retrospective effect mechanically and can be cancelled only if the proper officer deems it fit to do so. Moreover, such satisfaction can't be subjective but must be based on some objective criteria. The court also noted that there was nothing on record to show that the deceased was not making the requisite compliances under the Act.
- Therefore, the court modified the order and held that the registration shall now be treated as cancelled



with effect from 13th April 2021 i.e., the date of the demise of the assessee. The Court also held that GST authorities were not precluded from taking any steps for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law.

Dept. should consider assessee's representation to extend time for making payment since recovery notice was issued: HC

Facts of the case - ACP Business Enterprises (P.) Ltd. v. Secretary to Government - [2024] (Madras)

In the present case, the petitioner received a notice from the Revenue Authority demanding payment towards tax dues. The petitioner submitted a representation to the Revenue Authority requesting a 90-day extension for making payment and also sought revocation of the attachment of their bank accounts. It filed petition seeking consideration of its representation and contended that the proper officer had discretion to extend time for making payment under Section 79(1)(c) (iv) of the CGST Act, 2017.

Decision of the case :

- The Madras High Court noted that the proper officer has the discretion to extend the time for making payment under Section 79(1)(c)(iv) and if a notice for recovery has been issued under Section 79(1)(c) (i) then the proper officer can extend the time for making payment.
- Therefore, the Court directed the Revenue Authority to consider the petitioner's representation and dispose of it within a period of two months from the date of receipt of a copy of the order. The Court also allowed the petitioner to request the proper officer to lift the attachment of their bank account upon such terms as the officer may impose.

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HC directed bank to allow petitioner to remit amount of pre-deposit from attached bank accounts for appeal filing

Facts of the case - Kamrul Nahar v. Union of India - [2024] (TRIPURA)

In the present case, a show cause notice was issued to

the petitioner under section 73(1) of CGST Act, 2017 and adjudication order was also passed on same date. The petitioner did not invoke appellate remedy within time stipulated under section 107(4) and approached the High Court after expiry of period of limitation.

The department objected to maintainability of petition and the in meantime, the Government issued a notification allowing a window of opportunity to taxable persons who could not file an appeal against order passed on or before 31-3-2023. The petitioner was willing to file appeal and submitted that it was facing constraint in approaching appellate authority as all his bank accounts had been attached in recovery proceedings under Section 79.

■ Decision of the case :

The Honorable High Court noted that CBIC has opened a window of opportunity for taxable persons who could not file an appeal against the order passed by the proper officer subject to the condition that pre-deposit of 12.5% shall be paid out of which at least 20% should have been paid by debiting from the Electronic Cash Ledger. Therefore, the Court directed the concerned bank to permit petitioner to remit amount of pre-deposit as required from attached bank accounts to enable petitioner to file appeal within cut-off date.

DIRECT TAX

LIC Mutual Fund isn't public financial institution; interest payable to it isn't covered by section 43B: HC

Facts of the case - V2 Retail Ltd. vs. Deputy Commissioner of Income-tax - [2024] (Calcutta)

During the relevant assessment year, LIC Mutual Fund purchased certain unsecured debentures of the assessee company. The assessee extended the interest on unsecured debentures payable during the year to LIC Mutual Fund for another two years. It claimed deduction of the interest payable to LIC Mutual Fund. The Assessing Officer (AO) invoking the provisions of section 43B disallowed the interest on the ground that it had not been paid within the stipulated period.

On appeal, CIT(A) allowed the assessee's appeal. Subsequently, the order was reversed by the Tribunal, disallowing the deduction claimed by the assessee. Aggrieved by the order, an appeal was filed to the Calcutta High Court.

■ Decision of the case :

- The High Court held that as per clause 2(q) of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 (SEBI Mutual

Funds Regulations), mutual fund means the fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for investing in securities, money markets, gold or gold related instruments, silver or silver related instruments, real estate assets and other assets and instruments as may be specified by the Board from time to time.

- Clause 14 mandatorily requires that a mutual fund be constituted as a trust, and the instrument of a trust shall be a deed duly registered under the provisions of the Indian Registration Act, 1908, executed by the sponsorer in favour of the trustees named in such an instrument. Thus, LIC Mutual Fund is a trust, and the trust deed has been duly registered under the Indian Registration Act.
- LIC Mutual Fund is a trust of movable property, which has been created in terms of section 6 of the Indian Trust Act, 1882. The Life Insurance Corporation of India can be said to be an author of the trust or settlor of the trust, but the said trust and the Life Insurance Corporation of India are both separate legal entities. While the LIC Mutual Fund Trust is governed by the provisions of the Indian Trust Act read with SEBI Mutual Fund Regulations, the Life Insurance Corporation of India is governed by the provisions of the Life Insurance Corporation Act, 1956.



- Clause (d) of section 43B refers to any sum payable by the assessee as interest on any loan or borrowing from any public financial institution. Explanation 4(a) to section 43B provides that public financial institutions shall have the meaning assigned to them under section 4A of the Companies Act, 1956.
- Section 4A specifically mentions the Life Insurance Corporation of India, established under section 3 of the Life Insurance Corporation Act, 1956. It does not mention LIC Mutual Fund which is a trust established under the Indian Trust Act. Further, section 4A(2) empowers the Central Government to specify, by notification in the official gazette, such other institutions as it may think fit to be a public financial institution, provided that no institution shall be so specified unless - (i) it has been established or constituted by or under any Central Act, or (ii) not less than 51 per cent of the paid-up share capital of such institution is held or controlled by the Central Government.
- Neither LIC Mutual Fund Trust is mentioned in the list under sub-section (1) of section 4A of the Companies Act, 1956, nor has the LIC Mutual Fund Trust been established or constituted by or under any Central Act. Therefore, the LIC Mutual Fund Trust is not a public financial institution under section 4A. Consequently clause (d) of section 43B is not attracted under the facts and circumstances of the case.
- Accordingly, it could not be disallowed in the hands of the assessee on the grounds of non-compliance with conditions of section 43B, and the disallowance of interest invoking the provisions of section 43B cannot be sustained.

SetCom's order accepting explanation of gifts received from friends and relatives couldn't be faulted: HC

Facts of the case - Principal Commissioner of Income-tax vs. Smt. Umah Agarwal - [2024] (Karnataka)

A search under Section 132 was conducted on the assessee's premises, during which records, documents,

and jewellery were seized. During such the search, an undisclosed income was offered for tax. However, additional income offered before the Commission was asserted to constitute cash gifts received from relatives and well-wishers. The assessee also filed an Affidavit under Rule 8 of the Income Tax Settlement Commission (Procedure) Rules, 1997 and declared that she needed to maintain the details of cash gifts.

The PCIT also filed a report under Rule 9 and raised various objections. However, the Settlement Commission took note of the declaration made under Rule 8 of the Income Tax Settlement Commission (Procedure) Rules and accepted the assertion of cash gifts. Accordingly, the Commission deemed the additional income offered for tax as being fair and reasonable.

The matter reached before the Karnataka High Court.

Decision of the case :

- The High Court held that the assessee had filed an affidavit under Rule 8 explaining the receipt of gifts from friends and relatives. The revenue did not rebut such a declaration by presenting any additional facts to the contrary. In light of this, the Settlement Commission's conclusion that it accepted the explanation 'in the spirit of settlement' cannot be faulted, calling for interference in the exercise of the limited jurisdiction.
- With respect to the contention that the additional income disclosed was to be treated as income under the head Section 68 or 69. The Settlement Commission has once again referred to the affidavit filed under Rule 8 and observed that the report under Rule 9 does not place any contra material. It was observed that the PCIT did not show how the conditions prescribed under Section 115BBE were met.
- The special slab of higher rate as specified under Section 115BBE would be applicable as regards the income referred to in Sections 69, 69A, 69B, 69C or Section 69D. As rightly pointed out, the PCIT had not stated which particular provision would be applicable, as each provision has a distinct scope and applicability. In the facts of the present case, the question of invoking Section 69D did not arise. If any of the provisions of Section 69,

69A to 69C are sought to be invoked, in all such provisions, the non-acceptance of the explanation will result in such amount “may be deemed to be the income of the assessee for such financial year.”

- Accordingly, in the present case, the conclusion arrived at by the Settlement Commission while accepting the contents of the affidavit filed under Rule 8 ‘in the spirit of the settlement’ and refusing to accept the contention of having recourse to Section 115BBE cannot be interfered with.

No Dependent Agency PE can be said to be constituted if there was no transaction between two entities: ITAT

Facts of the case - Western Digital Technologies Inc. vs. Deputy Commissioner of Income Tax (International Taxation) - [2024] (Bangalore - Trib.)

The assessee, a non-resident leading developer, manufacturer and provider of data storage devices and solutions, completed its acquisition of the SanDisk Group. Accordingly, the assessee became SanDisk India’s ultimate holding company.

A survey was conducted at SanDisk India’s premises. Based on the survey proceedings, the Assessing Officer (AO) issued a notice under section 148 on the assessee for the year under consideration because Sankdisk India’s sales and marketing team created an agency PE of the assessee in India. The AO treated SanDisk India’s reimbursement of salary expenses of the seconded employees as FTS in the assessee’s hands.

On appeal, CIT(A) upheld the AO’s order, and the matter was brought before the Bangalore Tribunal.

Decision of the case :

- The Tribunal held that the reassessment proceeding was initiated on the assessee post survey conducted on SanDisk India. It was admitted that the assessee acquired SanDisk Corporation USA, thereby becoming the holding company of SanDisk India. No related party transaction existed between the assessee and SanDisk India. The transfer pricing

study report of SanDisk India reveals the transaction between SanDisk India and SanDisk LLC, USA, along with other group entities.

- Based on the survey materials collected, the AO cannot impute any relation between the assessee and SanDisk India for the year under consideration, which is prior to the date of acquisition. The financials of the assessee and SanDisk India, along with their respective TP study reports, speak contrary to the factual observations of the Assessing Officer in the remand report.
- The AO tried to make a business connection between the assessee and SanDisk India for the year under consideration by concluding that the marketing support services rendered by SanDisk India constitute an agency PE of the assessee in India. However, the AO should have appreciated that there has been no transaction in any manner whatsoever between the assessee and SanDisk India; there is no question of creating an agency PE of the assessee in India through SanDisk India.
- Since AO did not record any interrelated transaction between the assessee and SanDisk India to establish that they were associated enterprises during the financial year, SanDisk India cannot be held to be a dependent agency PE of the assessee.

Delhi HC overrules AAR ruling; allows capital gain exemption to ‘Tiger Global’ on sale of its stake in Flipkart

Facts of the case - Tiger Global International III Holdings v. Authority For Advance Rulings - [2024] (Delhi)

The Delhi Authority for Advance Ruling (AAR), in [2020] 116 taxmann.com 878 (AAR—New Delhi), denied Tiger Global the exemption on the capital gains arising from the sale of its stake in Flipkart. The AAR ruled that Tiger Global’s real management and control were not with the respective Board of Directors in Mauritius but with one US-based person, who was the beneficial owner of the entire group structure. Tiger Global was only a ‘see-through entity’ to avail itself of the benefits of the India-Mauritius DTAA.



Decision of the case :

- Now, the Delhi High Court has overruled the AAR ruling and held that tax exemption under the ‘grandfathering clause’ [Article 13(3A)] cannot be denied to ‘Tiger Global’ for capital gains arising from ‘indirect transfers’ of Flipkart Singapore shares acquired by it before 01.04.2017. The High Court held that the transaction was legitimate and not intended for tax avoidance, reaffirming the company’s right to the treaty benefits under the India-Mauritius DTAA.
- The Key takeaways from the ruling are as follows:

(1) Economic Substance

The Delhi High Court held that Tiger Global had genuine economic activities and was not just a shell entity for tax avoidance. The company managed substantial investments and met the necessary economic substance criteria. It acquired Flipkart Singapore shares between October 2011 and April 2015, with the transfer occurring on August 18, 2018. They incurred USD 1,063,709 in expenses, far exceeding the required threshold (prescribed in Article 27A), and had total liabilities and equity of USD 1.76 billion.₹

(2) TRC

The issuance of a TRC by the competent authority must be considered to be sacrosanct, and due weightage must be accorded to the same as it constitutes certification of the TRC holding entity being a bona fide entity having beneficial ownership domiciled in a Contracting State to pursue a legitimate business purpose in a Contracting State.

It was emphasised that being based in Mauritius should not automatically cast doubt on a company’s activities. The company’s Tax Residency Certificate (TRC) was deemed valid, affirming that the DTAA between India and Mauritius should take precedence over Indian domestic tax laws.

(3) Legal Precedents

The judgment referenced key cases like Azadi Bachao Andolan [2003] 132 Taxman 373 (SC) and Vodafone International Holdings [2012] 17 taxmann.com 202 (SC), indicating that treaty shopping in itself cannot be rendered abhorrent unless it was categorically established that the device was incorporated to evade tax and in a manner contrary to the intent of the Contracting States to the treaty.

(4) AAR’s Order

The court found the AAR’s determination that the transaction was aimed at tax avoidance to be unfounded and arbitrary. The AAR’s order was overturned, and the court ruled in favour of Tiger Global, granting them the benefits of the DTAA.

Settlement Commission is empowered to levy penalty for concealment of income: HC

Facts of the case - Rajendra Prasad Agarwal v. Income-tax Settlement Commission - [2024] (Allahabad)

The assessee purchased agricultural land in 1983. After the change in land use, he executed a Power of Attorney (PoA) in favour of the third person. Subsequently, the PoA holder executed the sale deed for that land. The assessee filed his return of income for the relevant assessment year without considering the capital gain arising from the transfer of such land.

During the assessment proceedings, the assessee disclosed the above capital gain, which was assessed to tax. Later, the assessee applied to the Settlement Commission to settle the case. The Settlement Commission imposed a penalty under section 271(1) (c) for furnishing inaccurate particulars of income. The matter reached the Allahabad High Court.

Decision of the case :

- The High Court held that the assessee had furnished

the explanation with respect to the alleged concealment. According to the assessee, he was not aware of the sale deed executed by his Power of Attorney holder. Further, the assessee contended that the property was sold against cash payment received by the said holder.

- The penalty for concealment may be imposed even by the Settlement Commission. There is no legal embargo against such levy of penalty. At the same time, it is sine qua non to impose such penalty that there must be ‘concealment’ of particular income or the assessee must have furnished ‘inaccurate’ particulars of income before the Settlement Commission.
- The Settlement Commission had not expressed any doubt about disbelieving the explanation furnished by the assessee. Since the penalty under section 271(1)(c) may be imposed only upon the occurrence of concealment and not upon under-disclosure, the burden on the Revenue Authority to establish such concealment remained undischarged.
- Though the revenue authorities made the allegation of concealment, the assessee furnished his fact explanation to the same. Without disbelieving the explanation furnished on cogent reasons and without reaching a conclusion of concealment on material evidence on record, the assessee did not stand exposed to the levy of penalty as a logical fallout of addition sustained in the assessment of income.
- Therefore, no conclusion of concealment may have arisen solely occasioned by that estimation of income by way of capital gains made by the Settlement Commission. In the absence of any independent evidence to establish the receipt of extra consideration and in the absence of any finding to reject the fact explanation furnished by the assessee, both as to ignorance of the sale deed executed by his Power of Attorney and also with respect to the actual consideration received, the element of concealment was not established.



TAX CALENDAR

INDIRECT TAX

| Due Date | Returns |
|-----------------|---|
| Sept 10th, 2024 | The due date for filing GSTR 7 for the period of August 2024 is 10th September |
| | The due date for furnishing GSTR 8 for the period August 2024 for registered e-commerce taxpayers in India who are liable to pay TCS should be deducted on or before deducted on or before 10th September |
| Sept 11th, 2024 | The last date to file the GSTR-1 form is 11th September 2024, for taxpayers having an annual aggregate turnover of more than INR 1.5 crore or the ones who have opted for the monthly return filing |
| Sept 13th, 2024 | Monthly IIF (August 2024) |
| | All non-resident persons must file the GSTR-5 alongside the payment of GST on or before the given due date in August 2024 |
| | Every Input Service Distributor (ISD) must file GSTR-6 on or before the given due date of 13th September for the period of August 2024 |

DIRECT TAX

| Due Date | Returns |
|-----------------|--|
| Sept 7th, 2024 | Due date for deposit of Tax deducted/collected for the month of August 2024 |
| | Declaration under sub-section (1A) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax for declarations received in the month of August 2024 |
| Sept 14th, 2024 | Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S (by specified person) in the month of July 2024 |
| Sept 15th, 2024 | Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August 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 August, 2024 |
| | Due date for furnishing statement in Form No. 3BC by a recognized association in respect of transactions in which client codes have been modified after registering in the system for the month of August 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

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

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.

Disclaimer:

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