September, 2024

TAX Bulletin

Volume - 168
17.09.2024

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
Statutory Body under an Act of Parliament
www.icmai.in

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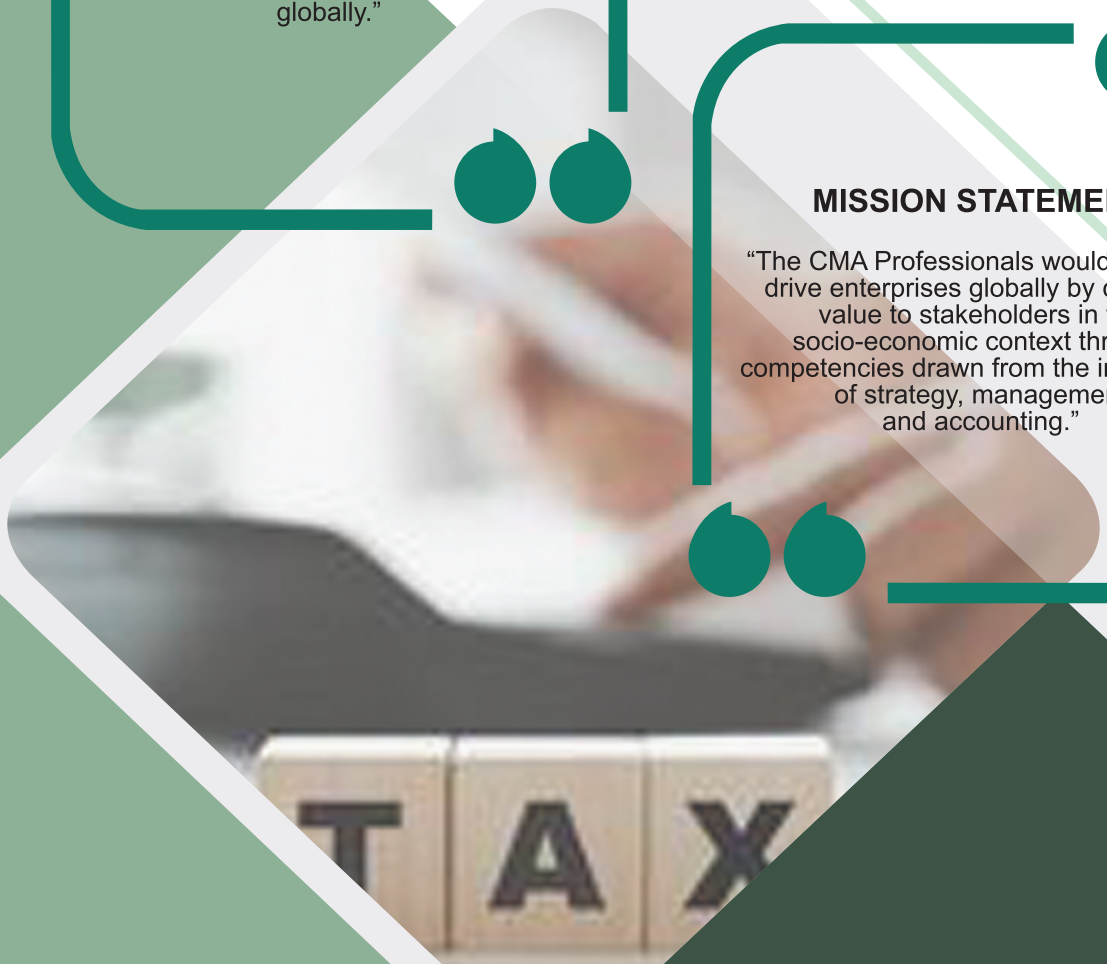
"The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting."



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)
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4. Certificate Course on TDS (CCTDS)
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6. Advanced Course on Income Tax Assessment and Appeals (ACIAA)
7. Certificate Course on International Trade (CCIT)

Admission Link - ***https://eicmai.in/advscc/DelegatesApplicationForm-new.aspx***

Modalities

Description	Course Name						
	CCGST	ACCGST	ACGAA	CCTDS	CCFOF	ACIAA	CCIT
Hours	72	40	30	30	30	30	50
Mode of Class	Offline/ Online	Online					
Course Fee* (₹)	10,000	14,000	12,000	10,000	10,000	12,000	10,000
Exam Fee* (₹)	1,000 per attempt						
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**18% GST is applicable on both Course fee and Exam fee*

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- Executives from Industries and Tax Practitioners
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Course Details

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

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Eligibility

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Modalities

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

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

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

Behind every successful business decision, there is always a CMA

Chairman's Message

CMA Rajendra Singh Bhati

Chairman Direct Taxation Committee

As we near the end of September a number of compliances are to be met by the 30th of the month in respect of Direct Taxes. I urge every stakeholder to take note of it and follow the regulation to serve their clients and members in a better fashion. Some of the compliances required to be met are stated below:

- It is the due date for filing of audit report under section 44AB for the Assessment Year 2024-25 in the case of a corporate assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2024
- Audit report under section 12A(1)(b) of the Income Tax Act, 1961 is the 30th of this month, in the case of charitable or religious trusts or institutions if due date of submission of return of income is October 31, 2024
- Filing of Form 10CCB with regards to Audit report under sections 80-I (7)/ 80-IA (7)/ 80-IB/80-IC/80-IAC/80-IE, if due date of submission of return of income is October 31, 2024
- Apart from the ones stated above, Forms like: Form 10BB, Form 10DA, Form 10-IJ, Form 29B, Form 29C, Form 3AE, Form 3CE, Form 9A, Form 10, Form 56F all requirements need to be complied with for the different classes of assessees.

For the department, the classes are being continued for all the 7 taxation courses. The webinars are also being scheduled for the coming fortnight.

I wish the best to Team - TRD.

Thank You.

CMA Rajendra Singh Bhati
Chairman – Direct Taxation Committee
The Institute of Cost Accountants of India
17.09.2024

Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee

The most important news for this fortnight has been the conduct of 54th GST Council Meeting at New Delhi on the 9th of September, 2024.

In this meeting the highlight point that has been introduced to reduce litigation and correction of balances has been the recommendation notifying Sections 118 and 150 of the Finance Act, 2024. It introduces CGST Sections 16 (5) and (6) retrospectively from 1st July 2017 to address input tax credit (ITC) eligibility criteria and rectification of wrong availment of ITC. A special procedure will be introduced under CGST Section 148 allowing taxpayers who received demand orders under Sections 73, 74, 107, or 108 for wrong ITC claimed against the provisions of CGST Section 16(4) who haven't appealed against the orders. They can rectify their position if the ITC is now allowed under the newly added CGST Section 16(5) or (6).

It was also stated that new conditions and procedure shall be outlined in the CGST Rules through the new Rule 164 for waiving interest, penalties, or both for tax demands under Section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20. Registered taxpayers can avail of this waiver if they make the necessary tax payments by 31st March 2025, as per Section 128A. Clarifications on the waiver process will be provided through a circular, and the related provisions will be effective from 1st November 2024.

I am sincerely hopeful that these steps would surely help the trade and businesses in clearing up their long pending blockages and smoothening the process of credit flows.

On the departmental front, the classes are being continued for all the 7 taxation courses. Quiz is being conducted also. The Tax Bulletins are being released and all other compliances being followed.

A representation has also been submitted on the "Request for Inclusion of Cost Accountants for Certification of Valuation and Cross-Charges under CGST Rules, 2017" to Shri Sanjay Kumar Agarwal, IRS, Chairman, Department of Revenue, Ministry of Finance, Government of India, Central Board of Indirect Taxes & Customs (CBIC) on the 5th of September, 2024.

We wish the best to Team – TRD for their sincerity.

Thank You.

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

17.09.2024

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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.ad2@icmai.in

54th GST Council Meeting Recommendations – Analysis and Impact

CMA Bhogavalli Mallikarjuna Gupta

Co-opted Member, Indirect Taxation Committee
The Institute of Cost Accountants of India

The GST Council recently convened for its second meeting of the year, addressing a range of critical issues and policy updates related to Goods and Services Tax (GST). Among the key topics discussed were significant adjustments to GST rates, including potential reductions on life and health insurance premiums, aimed at providing relief to consumers and boosting the insurance sector. The Council also delved into other essential matters such as tax compliance, procedural improvements, and steps to enhance transparency and revenue collection.

This article provides a comprehensive analysis of the major decisions taken during the meeting, examining their implications for businesses, taxpayers, and the broader economy. The outcomes of these discussions are expected to have a far-reaching impact on various sectors, shaping the future of India's tax landscape. Let's explore these important resolutions in detail.

1. Procedure to be announced for Section 16(5) and Section 16(6)

The Council has also recommended that a special procedure for rectifying orders be notified under Section 148 of the CGST Act. This procedure would apply to a specific class of taxable persons who have been issued orders under Sections 73, 74, 107, or 108 of the CGST Act, confirming the demand for incorrect availment of input tax credit due to non-compliance with sub-section (4) of Section 16. However, where such input tax credit is now permissible under sub-section (5) or sub-section (6) of Section 16, and no appeal has been filed against the said orders. The Council further recommended issuing a circular to clarify the procedure and address various issues related to implementing the provisions of sub-sections (5) and (6) of Section 16 of the CGST Act, 2017.

Section 16(5)

- This sub-section allows the availment of Input Tax Credit (ITC) for invoices or debit notes related to financial years 2017-18, 2018-19, 2019-20, and 2020-21.
- The ITC for these past years can be claimed in a return under section 39, which is filed up to November 30, 2021.

Section 16(6)

Impact: Currently, the lack of clarity and absence of these procedures is causing significant hardship for taxpayers. Many are forced to either file appeals with pre-deposit requirements—thus affecting their working capital—or resort to writ petitions in High Courts. The prompt introduction of these special ITC procedures is crucial to alleviate these issues.

The guidelines should also provide clarity for the following cases:

1. Orders under Sections 73 & 74: Cases where appeals have not been filed, or ITC has not been paid or reversed.
2. Orders under Section 107: Appeals filed but still pending.
3. Orders under Sections 73 & 74 with appeals filed but no further action taken on those appeals.
4. Writ petitions filed in High Courts.

5. Cases where taxpayers have already paid tax, including interest and penalties.

Timely issuance of these procedures will significantly reduce the burden on taxpayers and streamline compliance processes.

2. New Rule for Section 128A

The GST Council has proposed the addition of Rule 164 to the CGST Rules, 2017, along with specific forms detailing the procedure and conditions for claiming waivers on interest, penalties, or both, related to tax demands under Section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20, as outlined in Section 128A of the CGST Act. The Council recommended notifying March 31, 2025, as the deadline by which registered taxpayers can make their tax payments to avail this benefit, under sub-section (1) of Section 128A. Furthermore, the Council advised issuing a circular to clarify the process and address any issues regarding the waiver of interest, penalties, or both, as per Section 128A. The Council also recommended that Section 146 of the Finance (No. 2) Act, 2024, which introduces Section 128A into the CGST Act, 2017, be brought into effect starting November 1, 2024.

Conditions for availing wavier

- The waiver is applicable only if the taxpayer settles the full amount of the tax demand by a specified date, which will be notified by the government.
- The waiver does not apply to cases where the tax demand is due to:
  - Fraud,
  - Willful misstatement, or
  - Suppression of facts to evade tax, as covered under Section 74 of the CGST Act.
- Taxpayers who have received a notice or order under Section 73 are eligible to avail the waiver, provided they pay the full tax amount by the specified deadline.
- In cases where proceedings initially commenced under Section 74 but were subsequently downgraded to Section 73 during appellate or court proceedings (such as when fraud charges were not proven), the waiver can still be claimed.

The new rule also should address the following cases

- Where the demand is partially accepted
- Where there are multiple issues, and the taxpayer accepts some of them
- Where the taxpayer has already paid the interest and penalty

3. Clarifications on Export Refunds and Input Supplies

The GST Council has recommended clarifying that in cases where inputs were initially imported without paying integrated tax and compensation cess under the benefits of Notification No. 78/2017-Customs or Notification No. 79/2017-Customs, both dated 13.10.2017, but where IGST and compensation cess were later paid along with applicable interest, and the Bill of Entry for these inputs is reassessed by the jurisdictional Customs authorities, the IGST refunded on exports will not be considered a violation of sub-rule (10) of Rule 96 of the CGST Rules.

Furthermore, recognizing the challenges faced by exporters due to restrictions on export refunds under Rule 96(10), Rule 89(4A), and Rule 89(4B) of the CGST Rules, 2017—where concessions or exemptions on inputs were availed—the Council has recommended the prospective removal of these rules. This is expected to streamline and accelerate the refund process for such exports.

Rules 89(4A) and 89(4B) pertain to the refund of unutilized Input Tax Credit (ITC) in cases of zero-rated supplies. Recent amendments to Rule 89 have clarified the requirement of a formula to calculate refunds for these claims.

4. Reverse Charge Mechanism (RCM)

Renting of Commercial Property by unregistered persons

The proposal aims to bring the renting of commercial property by an unregistered person to a registered person under the Reverse Charge Mechanism (RCM). This measure is intended to prevent potential revenue leakage and ensure proper tax compliance.

Taxpayers who are registered under composition will have an impact as they cannot claim the input tax credit. There will be an additional cash outflow and increase in expenses. Such taxpayers can do a cost benefit analysis and then migrate to regular registration.

Under the current taxation framework, renting commercial property operates under a forward charge mechanism. This means that the service provider, or landlord, is responsible for charging GST at a rate of 18% and for remitting it to the government. It is important to note that if the landlord is unregistered, GST is not applicable unless their turnover surpasses the ₹20 lakh threshold, which further complicates the enforcement of tax compliance in this sector.

The recent changes aim to address potential revenue leakages in the GST system. A common practice among some landlords has been to structure rental agreements in a way that keeps their earnings below the GST registration threshold of ₹20 lakhs, thus allowing them to evade GST obligations. This has led to substantial confusion regarding the applicability of the reverse charge mechanism (RCM) in the context of commercial property rentals, which necessitates clarification and reform.

Clarification on services provided by GTA, attracting RCM

The clarification states that when a Goods Transport Agency (GTA) provides ancillary or intermediate services, such as loading/unloading, packing/unpacking, transshipment, or temporary warehousing, as part of the transportation of goods by road and issues a consignment note, these services will be treated as a composite supply. In this case, all such ancillary or intermediate services will be considered part of the composite supply of transportation. However, if these services are provided separately and invoiced independently, they will not be treated as part of the composite supply of transportation of goods.

To prevent any ambiguity or potential litigation, it is strongly advised that contracts or agreements are drafted with clarity. These agreements should explicitly state that the issuance of a Consignment Note by the Goods Transport Agency (GTA) is mandatory.

5. B2C – e-invoicing

Building on the success of e-invoicing in the B2B sector, the GST Council has proposed a pilot program for B2C e-invoicing. This initiative aims to improve operational efficiency, reduce business costs, and promote environmental sustainability. Additionally, it empowers consumers to verify invoices within GST returns, enhancing transparency.

Key Features and Benefits

Pilot: The program will be voluntary, rolled out in select states and sectors, and will help identify operational challenges before expanding nationwide.

Tax Evasion Prevention: e-invoicing will help curb tax evasion in retail by ensuring invoices are registered before transactions are completed, reducing the risk of manipulation.

Current Regulations: e-invoicing is mandatory for businesses with a turnover above INR 5 crores. The B2C pilot will not impact smaller businesses below this threshold.

Volume of Taxpayers: Around 91.43 lakh taxpayers fall under the INR 5 crore category, generating over 10.93 crore invoices in March 2024 alone. The pilot balances combating tax evasion while keeping compliance manageable.

Challenges and Considerations

Technology Requirements: The success of the pilot hinges on the GST Network's (GSTN) and National Informatics Centre's (NIC) ability to handle increased invoicing volumes.

Consumer Awareness: Educating customers on e-invoices and encouraging behavioural shifts will be crucial for success.

Audit and Compliance: e-invoicing is expected to streamline audits and reduce discrepancies in GST returns.

Incentivizing Compliance: Offering attractive incentives to consumers for requesting e-invoices could drive greater participation.

The B2C e-invoicing pilot represents a major step toward comprehensive invoicing in India's tax system. The GST Council's phased approach aims to curb tax evasion while ensuring minimal impact on small businesses. The success of this initiative will depend on technological readiness and active consumer engagement.

6. Other Changes

(a) GST on Life and Health Insurance

The GST Council has recommended the formation of a Group of Ministers (GoM) to comprehensively address issues related to GST on life and health insurance. This initiative involves a collaborative effort from various states, including Bihar, Uttar Pradesh, West Bengal, Karnataka, Kerala, Rajasthan, Andhra Pradesh, Meghalaya, Goa, Telangana, Tamil Nadu, Punjab, and Gujarat. The GoM is expected to submit its findings and recommendations by the end of October 2024.

The primary objective of the GoM is to investigate concerns surrounding the current GST rate of 18% applied to life and health insurance premiums. The members will assess whether these rates are suitable or if adjustments are necessary to enhance affordability, particularly for health insurance. By examining various aspects of GST related to insurance, the GoM aims to ensure that the regulatory framework supports both industry sustainability and consumer accessibility.

The report prepared by the GoM will serve as a basis for potential decisions regarding changes to the GST treatment of insurance services, paving the way for a more nuanced approach to taxation in this sector.

(b) Supply of research and development services

The GST Council has recommended exempting the supply of research and development services provided by government entities, research associations, universities, colleges, or other institutions notified under clauses (ii) or (iii) of sub-section (1) of Section 35 of the Income Tax Act, 1961. This exemption applies specifically when these services are funded by government or private grants.

Additionally, the GST Council has proposed that any past demands related to these services be regularized on an "as is where is" basis. This means that GST liabilities from previous periods will be settled in their current state, allowing for a straightforward resolution without the need for further action.

This initiative will relieve research organizations from the complexities of GST litigations and provide much-needed clarity on the treatment of grants used for research. By offering this clarity, the move is expected to encourage greater industry investment in research projects, ultimately supporting India's goal of becoming a 30 trillion-dollar economy.

(c) Clarification on Preferential Location Charges

The GST Council has provided clarification regarding Preferential Location Charges (PLC) paid in conjunction with the consideration for construction services related to residential, commercial, or industrial complexes. It has been established that PLC forms part of a composite supply, where the primary service being supplied is construction services. This means that PLC,

which refers to additional charges levied by builders for properties in prime locations—such as those with better views, higher floors, or favorable orientations—will receive the same tax treatment as the main construction service, provided it is paid before the issuance of a completion certificate.

According to the clarification, when PLC is paid alongside the consideration for construction services prior to the completion certificate being issued, it is considered naturally bundled with the construction service. Consequently, PLC will attract the same GST rate that applies to the main supply, which is set at 18% for construction services.

Additionally, it is important to note that if a property is sold after the completion certificate has been issued, the transaction is no longer categorized as a supply of goods or services. In such cases, the supply of PLC is not taxable under GST. To summarize, the GST Council has confirmed that PLC forms part of the composite supply of construction services when paid prior to completion and should be taxed accordingly. However, once the completion has occurred, PLC is exempt from GST as it is no longer linked to an ongoing supply of services.

(d) GST on Affiliation Services in Education

The GST Council has clarified the taxation status of affiliation services rendered by educational boards and universities. Affiliation services provided by boards such as the CBSE are considered taxable. However, a prospective exemption has been granted for affiliation services provided by State and Central educational boards, educational councils, and similar bodies to government schools. Additionally, any issues concerning the past period from July 1, 2017, to June 17, 2021, will be regularized on an "as is where is" basis.

In a separate clarification, the GST Council stated that the affiliation services provided by universities to their constituent colleges are not covered under the exemptions outlined in Notification No. 12/2017-CT(R) dated June 28, 2017. As such, these services are subject to GST at a rate of 18%. Affiliation services involve recognizing and admitting colleges to the university's privileges, ensuring they meet various essential criteria such as infrastructure, faculty strength, and financial health. Since these services facilitate the operation of college programs rather than student admissions or examinations, they do not qualify for exemptions applicable to educational institutions.

(e) Services provided by Transmission and Distribution Companies

The GST Council has proposed an exemption for various ancillary services that are incidental to the transmission and distribution of electricity. Services such as application fees for electricity connections, rental charges for electricity meters, testing fees for meters, transformers and capacitors, labor charges for shifting meters or service lines, and charges for duplicate bills will be exempted when provided as part of a composite supply by transmission and distribution utilities to their consumers. Additionally, GST for the past period will be regularized on an "as is where is" basis.

Historically, prior notifications (specifically No. 12/2017-CTR) confirmed that the transmission and distribution of electricity by utilities is exempt from GST. However, ancillary services such as application fees, rental charges, testing fees, labor charges, and charges for duplicate bills were initially classified as taxable under GST as of July 1, 2017. These services were viewed as distinct from the core service of electricity transmission and distribution, leading to their obligation to collect GST. The recent clarification aims to streamline the treatment of these ancillary services, aligning them with the exemptions granted to the primary service of electricity distribution.

(f) Transport of passengers by helicopters

The Government will notify GST at a rate of 5% on passenger transport services provided by helicopters on a seat-share basis. This change will also regularize GST for the past period on an

"as is where is" basis. However, it is important to note that charter services for helicopters will continue to attract an 18% GST.

This exemption aims to reduce the compliance burden for foreign airline companies operating in India, which frequently receive various services from their global headquarters. This initiative is intended to streamline operations for these companies, making it easier for them to manage their GST obligations while enhancing overall efficiency.

In addition to the significant changes discussed, the GST Council has also recommended reductions in tax rates on certain goods and services, offering relief to taxpayers. As the GST landscape continues to evolve, businesses and tax professionals must stay vigilant, keeping track of new notifications and updates. It is crucial for businesses to adjust their processes, update software systems, and revise contracts to remain compliant with the latest regulatory changes.

The decisions made in this meeting will undoubtedly have a lasting impact on the tax regime, with the potential to streamline compliance, reduce litigation, and promote transparency. Taxpayers are advised to regularly monitor notifications from the GST Council to ensure smooth transitions and to avoid any penalties or compliance issues in the future. The Council's efforts to modernize the tax system, enhance efficiency, and support economic growth will play a key role in shaping India's journey towards becoming a 30 trillion-dollar economy.

Disclaimer

Section 50C of Income Tax Act,1961: A Brief Discussion

CMA Parmeswaran Vythilingam Iyer

Cost Accountant

Meaning

As per Section 45. (1) Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections 54, 54B, 54D, 54E, 54EC,54F, 54G,54GA and 54H, be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

Conditions for Taxability

- There must be a Capital Asset
- The Capital Asset must have been transferred
- Such transfer must have taken place during the previous year
- Transfer of such capital asset must give rise to profits or gains (includes loss also)
- Such capital gains should not be exempt from tax u/s 54, 54B, 54D, 54E, 54EC,54F, 54G ,54GAand 54H

Classification

Capital Gains under Income Tax Act,1961 is classified into 2 types:

- **Short Term Capital Gain:** Capital Gains arising on Transfer of Short-Term Capital Asset
- **Long-Term Capital Gain:** Capital Gains arising on Transfer of Long-Term Capital Asset

Short Term Capital Asset = Holding Period is 24 Months (listed securities and equity-oriented funds qualify if held for less than or equal to 12 months

Long Term Capital Asset = Holding Period is More than 24 Months (listed securities and equity-oriented funds qualify if held for More than 12 months)

Mode of Computation

Short-term capital gain= (full value consideration) - (cost of acquisition + cost of improvement + cost of transfer).

Long-term capital gain = (full value of consideration received or accruing) - (indexed cost of acquisition + indexed cost of improvement + cost of transfer)

For any immovable property acquired before 23rd July 2024, the taxpayers (Individuals and HUF) will have the option to choose between two LTCG computation methods -

- 12.5% tax rate, without indexation
- 20% tax rate with indexation benefit.

Section 50C

50C. (1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value

of the consideration received or accruing as a result of such transfer

Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed7, on or before the date of the agreement for transfer:

Provided also that where the value adopted or assessed or assessable by the stamp valuation authority **does not exceed one hundred and ten per cent of the consideration** received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of **section 48**, be deemed to be the full value of the consideration. (**Safe Harbour Rule**)

Reference to Valuation Office

SVA may not always precisely represent Fair Market Value (FMV) or the seller may not be satisfied with the value set owing to known conditions. The seller might challenge SVA's assessment and argue that it is higher than Section 50C's Fair Market assessment (FMV) for income tax purposes. Unless the value has been disputed elsewhere, this can only be done before the income tax authority. In such cases, the income tax officer must consult the valuation officer for market value. The valuation officer must request records/documents from the taxpayer, allow the taxpayer to present their case, and provide a written ruling on market value. Any valuation officer value can be questioned by higher authorities. If ascertained by the Valuation Officer exceeds the value adopted or assessed or assessable by the stamp valuation authority the value so adopted or assessed or assessable by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.

Case Laws Discussion

Shivdeep Tyagi Vs ITO [2024] (Delhi-Trib.)

Assessee an Individual Salaried Employee filed his Income Tax Return (In short, the 'ITR') of the relevant assessment year 2011-12 on 17.02.2012 declaring income of `.5,06,850/- which was processed under section 143(1) of the Act. Later on; the AO, based on the AIR information that the assessee who sold a leasehold property for `.60,00,000/- did not offer the capital gains derived thereon for tax in the relevant year, reopened the case. Since the appellant/ assessee did not file any proof of cost of acquisition of the leasehold property during the assessment proceedings, therefore, the consequential reopened assessment was completed at income of `.75,94,850/-, under section 147/143(3) of the Act on 10.12.2018, by taxing the entire sale consideration of `.75,94,850/- for stamp duty purposes as against the actual sale consideration of `.60,00,000/-. The appellant/assessee did not succeed in first appeal. Therefore, he filed this appeal before the Tribunal.

The Tribunal Held that the leasehold right in a plot of land are neither 'land or building or both' as such nor can be included within the scope of 'land or building or both'. The distinction between a capital asset being 'land or building or both' and any 'right in land or building or both' is well recognized under the Act. Section 54D of the Act deals with certain cases in which capital gains on compulsory acquisition of land and building is charged to tax. Section 54D(1) of the act opens with: "Subject to the provisions of sub-section (2), where the capital gain arises from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking…..". Thus, it is palpable from section 54D of the Act that 'land or building' is distinct from 'any right in land or building'.

Decision Relied upon by the Tribunal

The Hon'ble Supreme Court in the case of Amarchand N. Shroff 48 ITR 59 has held that a deeming provision

cannot be extended beyond the purpose for which it is enacted. Similar view was reiterated by the Hon'ble Supreme Court in the case of Mother India Refrigeration Industries (P.) Ltd. 155 ITR 711 by laying down that "legal fictions are created only for some definite purpose and these must be limited to that purpose and should not be extended beyond their legitimate field". In view of the above decisions of the Hon'ble Supreme Court, it is clear that a deeming provision can be applied only in the scope of the law and not beyond the explicit mandate of the section. Hence, the provisions of Section 50C of the Act is applicable only in respect of 'land or building or both'. If the capital asset under transfer cannot be described as 'land or building or both', then Section 50C of the Act will not apply.

PCIT v. Durgapur Projects Ltd - [2023] (Calcutta)

Assessee, a company, transferred land under compulsory acquisition to the National Highways Authority of India (NHAI). During the assessment proceedings, the Assessing Officer (AO) computed the capital gains on such land by considering the provisions under section 50C i.e., considering the stamp duty value of such land. On appeal, CIT(A) deleted the additions made by AO which was further ratified by the Tribunal. The matter then reached the Calcutta High Court.

Decision of the case :

The Court held that Section 50 of the Act was designed to control the transaction where the correct market value is not mentioned and there is suppression of the correct value by the parties to the transactions. In the instant case, the land was acquired by the Government by way of compulsory acquisition. The transfer of land was not a result of an agreement between the parties but on account of compulsory acquisition. Thus, there is no room to suspect the correct valuation and the apparent consideration reflected in the sale documents. It is a widely known fact that the compensation for compulsory acquisition is much lesser than the fair market value of the property as the value is determined by taking into various factors. This is the reason that the Act provides for appellate and other remedies if the owner is offered inadequate compensation. Therefore, the question of suppression of the value and invoking Section 50C of the Act does not arise.

Jagdish C. Dhabalia and another v. ITO [2019] 104 taxmann.com 208

Facts of the Case

The assessee was a joint owner of a plot of land situated at Borivali, Mumbai, having 25% undivided share in the plot. The assessee and other co-owners transferred the plot in favour of purchaser under a sale deed dated 29/09/2007 pursuant to which the assessee received a sum of Rs.25 lakhs by way of sale consideration. The assessee invested entire amount of Rs.25 lakhs in the bond of 'Rural Electrification Corporation Ltd.' as specified under section 54 EC of the Income Tax Act,1961 ('the Act' for short). In the return of income filed for the year 2008-2009 the assessee had declared the long term capital gain on transfer of land at Rs.21,19,344/ and claimed full exemption of such capital gain, under section 54 EC of the Act. The Stamp Duty Authorities however had valued the land for the purpose of levying stamp duty at Rs.3,04,70,810/.The Assesse's share of such stamp valuation of the property at 25% comes to Rs.76,17,702/.

During the course of scrutiny of assessee's return, the Assessing Officer determined the long term capital gain of Rs.49,47,344/ and accordingly passed the order of assessment on 29/12/2010.

The assessee filed Appeal against the order of Assessment, before CIT (Appeals). The Assessee contended that since the entire sale consideration of Rs.25 lakhs was invested in the specified bond, the assessee must get full exemption from capital gain, irrespective of the computation of the deemed sale consideration under section 50C of the Act. CIT Appeals allowed the assessee's Appeal, upon which the revenue filed Appeal before the Tribunal. upon which the revenue filed Appeal before the Tribunal. The tribunal was of the opinion that for the purpose of exemption under section 54EC of the Act, deeming fiction contained in section 50C of the Act cannot be ignored. The assessee could claim exemption only in relation to the investment made in the specified bond and not qua the entire capital gain.

Decision of the Bombay High Court

The Court Held that while giving full effect to the deeming fiction contained under section 50C of the

Act for the purpose of computation of the capital gain under section 48, for which section 50C is specifically enacted, the automatic fallout thereof would be that the computation of the assessee's capital gain and consequently the computation of exemption under section 54EC, shall have to be worked out on the basis of substituted deemed sale consideration of transfer of capital asset in terms of section 50C of the Act. Any other interpretation, particularly one canvassed by the learned Counsel for the Assessee, would render the provisions of section 50C redundant

Gouli Mahadevappa v. ITO[2013] 33 taxmann.com 47/215 Taxman 145/356 ITR 90

Facts of the Case

he appellant-assessee sold a house plot in RMV II Stage, Bangalore, for Rs.20,00,000/- under registered sale deed dated05.06.2004. The Assessing Authority found that the registration value of the property fixed under the Karnataka Stamp Act is Rs.36,00,000/-. The assessee, however, had reinvested Rs.24,00,000/-for construction of residential house at Gangavathi and sought exemption from the payment of capital gain tax under Section 54F of the Income Tax Act (for short 'the IT Act'). The Assessing Authority found that under Section 50C of the IT Act the value of the property is Rs.36,00,000/-, The cost price of site paid by the assessee at Rs.1,93,506/- was deducted and the net income chargeable to tax under Capital Gains was assessed at Rs. 34,06,494/-, further, the Assessing Authority given deduction of Rs.20,00,000/- towards investment in construction of residential house at Gangavathi and assessed the long term Capital Gain at Rs.14,06,494/- and the tax payable is assessed at Rs.4,96,989/-. The assesses filed an appeal before the Commissioner of income Tax (Appeals) who confirmed the order of the Assessing Officer. The assessee filed an appeal before the Income Tax Appellate Tribunal, Bangalore. The Appellate Tribunal upheld the order of the Assessing Authority and dismissed the appeal The assessee, aggrieved by the said order of the Appellate Tribunal, has filed this appeal.

Decision of the High Court

The High Court on appeal by the assessee partly allowed the appeal by holding that where capital gain is assessed on notional basis under section 50C of the Act, whatever amount is invested in new residential house within prescribed period under section 54F of the Act, entire amount so invested would get benefit of deduction irrespective of the fact that funds from other sources are also utilized for new residential house.

In other words, the High Court did not agree with the Tribunal which held that section 50C value cannot be substituted in lieu of actual consideration for the purpose of deduction under section 54F of the Act and held that section 50C value has to be adopted but at the same time, again not agreeing with the view of the Tribunal which restricted the deduction to capital gain, held that entire amount invested from all sources in the new capital asset was eligible for deduction.

Contrasting Views in relation to application on Section 50C and Exemptions under Capital Gains

In case of ***Baskarababu Usha v. ITO [2022] 135 taxmann.com 307 (Chennai-Trib)*** The tribunal held that for the purpose of exemption under section 54F the Assessing Officer has adopted deemed sale consideration and not the apparent consideration. The basis for such adoption being the provisions of section 50C. The tribunal held that the deeming fiction provided for computing full value of consideration is only for determining full value of consideration as defined in section 48 and for the purpose of computing exemption under section 54F of the Act, the deeming fiction provided in section 50C cannot be enlarged.

The rationale of the tribunal decision is that one cannot expect a person to perform impossible things. When the person receives a particular sum, he cannot be expected to invest any amount over and above the amount of consideration received for transfer of property. It held that it may not be the intention of the legislature. If section 50C is applied on such section 54F then it is impossible for the assessee to fulfil the conditions for availing the full exemption in spite of investing the entire net consideration in a new residential house.

It referred to similar such decision in the case of ***Dy.CIT v. Dr. Chalasani Mallikarjuna Rao [2016] 75 taxmann.com 270 / 161 ITD 721 (Visakha-Trib)***. Accordingly,

the tribunal held that where the assessee claims exemption under section 54F the net consideration when deployed in acquisition or construction of residential house, it should be eligible for exemption and the provisions of section 50C should not be imported for such computation.

Summary

The scheme of 50C can be summarized as thus.

It is manifest that under 50C, the value adopted by the SVA is deemed as the full value of consideration for computing capital gains.

There is an exception when the assessee can show that the fair market value is lesser than the stamp duty valuation, the AO will have to refer the case to the DVO for determining the- assessee full proof protection.

The legislature was carefully enacted to ensure that the valuation of the property by the DVO could not act to be determent of the assessee; the rationale being that the assessee cannot be put to any disadvantage in case the matter is referred to the DVO.

And finally, since the proviso to 50C was inserted to remedy the unintended consequences and to make the section workable it could read retrospective in operation ***[Rajpal Mehra (HUF) Vs ACIT (ITAT Mumbai)]***

The 'Guidance Value' fixed for stamp duty purposes is fixed by the authority concerned, taking into account the location, current market price of property in particular area, etc., as a standard measure to iron out the differences of personal factors, such as sale in distress for meeting financial emergency, sale to related parties and a host of such other factors. But in Income Tax Act, the concept of levy of tax on ''real income'' exists. Therefore, Capital Gains Tax can also be levied on 'real' capital gains and not on the presumptive capital gains. The need to determine a Fair Market Value upon a fact-finding exercise is a *sine qua non*.

[Madras High Court in the case of Jagannathan Sailaja Chitta v. ITO, International Taxation [2019] 104 taxmann.com 131]

The current Article discusses only a select Case Laws with reference to applicability of Section 50C of Income Tax Act,1961,there are lot of Case Laws and debatable issues addressed with reference to Section 50C by various Legal Forums like ITAT, High Court and Supreme Court Taxpayers and Professionals should carefully arrive at the conclusion after having a through understanding of the various rulings.

PRESS RELEASE

INDIRECT TAX

Recommendations during 54th meeting of the GST Council

GST Council recommends Group of Ministers (GoM) on life and health insurance related GST with existing GoM on Rate Rationalisation; to submit report by end of October 2024

GST Council also recommends formation of a GoM to study the future of compensation cess

GST Council recommends to exempt supply of research and development services by a Government Entity; or a research association, university, college or other institution notified u/s 35 of Income Tax Act using government or private grants

GST Council recommends reduction in GST rates on cancer drugs - Trastuzumab Deruxtecan, Osimertinib and Durvalumab from 12% to 5%.

GST Council recommends roll out of a pilot for B2C e-Invoicing

Posted On: 09 SEP 2024 7:57PM by PIB Delhi

The 54th GST Council met under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in New Delhi today.

The meeting was also attended by Union Minister of State for Finance Shri Pankaj Chaudhary, Chief Ministers of Goa and Meghalaya; Deputy Chief Ministers of Arunachal Pradesh, Bihar, Madhya Pradesh, and Telangana; besides Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/ UTs.

The GST Council inter-alia made the following recommendations relating to changes in GST tax rates, provide relief to individuals, measures for facilitation of trade and measures for streamlining compliances in GST.

A. Changes/Clarifications in GST Tax Rates:

GOODS

1. Namkeens and Extruded/Expanded Savoury food products

The GST rate of extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 to be reduced from 18% to 12% at par with namkeens, bhujia, mixture, chabena (pre- packaged and labelled) and similar edible preparations in ready for consumption form which are classifiable under HS 2106 90. The GST rate of 5% will continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion.

- To also clarify that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 is applicable prospectively.

2. Cancer Drugs

- The GST rate on cancer drugs namely, Trastuzumab Deruxtecan, Osimertinib and Durvalumab to be reduced from 12% to 5%.

3. Metal Scrap

- Reverse Charge Mechanism (RCM) to be introduced on supply of metal scrap by unregistered person to registered person provided that the supplier shall take registration as and when it crosses threshold limit and the recipient who is liable to pay under RCM shall pay tax even if supplier is under threshold.
- A **TDS of 2%** will be applicable on supply of metal scrap by registered person in B to B supply.

4. Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways

- To **clarify** that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways would be classified under HSN 8415 attracting a GST rate of 28%.

5. Car and Motor cycle seats

- To **clarify** that car seats are classifiable under 9401 and attract a GST rate of 18%.
- GST rate on car seats classifiable under 9401 **to be increased** from 18% to 28%. This uniform rate of 28% will be applicable **prospectively** for car seats of motor cars in order to bring parity with seats of motorcycles which already attract a GST rate of 28%.

SERVICES

1. Life and Health insurance

- GST Council recommended to constitute a Group of Ministers (GoM) to holistically look into the issues pertaining to GST on the life insurance and health insurance. The GoM members are Bihar, UP, West Bengal, Karnataka, Kerala, Rajasthan, Andhra Pradesh, Meghalaya, Goa, Telangana, Tamil Nadu, Punjab, and Gujarat. The GoM is to submit the report by end of October 2024.

2. Transport of passengers by helicopters

- To **notify** GST @ 5% on the transport of passengers by helicopters on seat share basis and to regularise the GST for past period on 'as is where is' basis. To also **clarify** that charter of helicopter will continue to attract 18% GST.

3. Flying training courses

- To **clarify** by way of a circular that the approved flying training courses conducted by DGCA approved Flying Training Organizations (FTOs) are exempt from the levy of GST.

4. Supply of research and development services

- The GST Council recommended to **exempt** supply of research and development services by a Government Entity; or a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 using Government or private grants.
- Past demands to be **regularised** on '*as is where is*' basis.

5. Preferential Location Charges (PLC)

- To **clarify** that location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex before issuance of completion certificate forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply that is, construction service.

6. Affiliation services

i. To **clarify** that affiliation services provided by educational boards like CBSE are taxable. However, to **exempt** affiliation services provided by State/ Central educational boards, educational

councils and other similarly placed bodies to Government Schools prospectively. The issue for the past period between 01.07.2017 to 17.06.2021 to be regularized on 'as is where is' basis.

ii. To **clarify** by way of circular that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the notification No. 12/2017-CT(R) dated 28.06.2017 and GST **at the rate of 18% is applicable** on the affiliation services provided by the universities.

7. Import of service by branch Office

- To **exempt** import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration. The council also recommended to regularise the past period on 'as is where is' basis.

8. Renting of commercial property

- To bring **renting of commercial property by unregistered person to a registered person** under **Reverse Charge Mechanism (RCM)** to prevent revenue leakage.

9. Ancillary/intermediate services are provided by GTA

- To **clarify** that when ancillary/intermediate services are provided by GTA in the course of transportation of goods by road and GTA also issues consignment note, the service will constitute a composite supply and all such ancillary/intermediate services like loading/ unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as part of the composite supply. If such services are not provided in the course of transportation of goods and invoiced separately, then these services will not be treated as composite supply of transport of goods.

Other changes

10. To **regularise** the GST liability for the past period prior to 01.10.2021 on 'as is where is' basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.

11. To **exempt** supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/ transformers/capacitors, labour charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply. GST for the past period to be **regularised** on 'as is where is' basis.

B. Measures for facilitation of trade:

1. Procedure and conditions for waiver of interest or penalty or both, in respect of tax demands under section 73 of CGST Act, 2017 for FYs 2017-18, 2018-19 and 2019-20 as per section 128A of CGST Act, 2017:

The GST Council recommended insertion of rule 164 in CGST Rules, 2017, along with certain Forms, providing for the procedure and conditions for availment of benefit of waiver of interest or penalty or both, relating to tax demands under section 73 of CGST Act, pertaining to FYs 2017-18, 2018-19 and 2019-20, as per section 128A of CGST Act. The Council also recommended to notify under sub- section (1) of section 128A of CGST Act, 31.03.2025 as the date on or before which the payment of tax may be made by the registered persons, to avail the said benefit as per section 128A of the CGST Act. The Council also recommended the issuance of a circular to clarify various issues related to availment of waiver of interest or penalty or both as per section 128A of CGST Act. The Council also recommended that section 146 of Finance (No. 2) Act, 2024, which provides for insertion of section 128A in CGST

Act, 2017, may be notified with effect from 01.11.2024.

2. Providing a mechanism for implementation of newly inserted sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017:

The GST Council recommended that section 118 and 150 of the Finance (No. 2) Act, 2024, which provides for insertion of sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017 retrospectively with effect from 01.07.2017, may be notified at the earliest.

The Council also recommended that a special procedure for rectification of orders may be notified under section 148 of the CGST Act, to be followed by the class of taxable persons, against whom any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed. The Council also recommended issuance of a circular to clarify the procedure and various issues related to implementation of the said provisions of sub-section (5) and sub-section (6) of section 16 of CGST Act, 2017.

3. Amendments in rule 89 and rule 96 of CGST Rules, 2017 and to provide clarification in respect of IGST refunds on exports where benefit of concessional/ exemption notifications specified under rule 96(10) of CGST Rules, 2017 has been availed on the inputs:

The GST Council recommended to clarify that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017- Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but IGST and compensation cess on such imported inputs are subsequently paid, along with applicable interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST paid on exports, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

Further, considering the difficulty being faced by the exporters due to restriction in respect of refund on exports, imposed vide rule 96(10), rule 89(4A) & rule 89(4B) of CGST Rules, 2017, in cases where benefit of the specified concessional/ exemption notifications is availed on the inputs, the Council recommended to prospectively omit rule 96(10), rule 89(4A) & rule 89(4B) from CGST Rules, 2017. This will simplify and expedite the procedure for refunds in respect of such exports.

4. Issuance of clarifications through the circulars to remove ambiguity and legal disputes in certain issues:

The GST Council recommended issuance of circulars to provide clarity and to remove doubts and ambiguities arising in the following issues due to varied interpretations by the field formations:

i. Clarification on the Place of Supply of advertising services provided by Indian advertising companies to foreign entities.

ii. Clarification regarding availability of Input Tax Credit on demo vehicles by the dealers of the vehicle manufacturers.

iii. Clarification on Place of Supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India.

5. The Council also recommended amendments in some other provisions of CGST Rules, 2017.

C. Other measures:

1. B2C E-invoicing:

The GST Council recommended roll out of a pilot for B2C e-Invoicing, following the successful implementation of e-invoicing in the B2B sector. The Council recognized potential benefits of e-invoicing in retail, such as improved business efficiency, environmentally friendly, cost efficiency to the business, etc.

It would also provide an opportunity to the retail customers to verify the reporting of the invoice in the GST return. The pilot will be rolled out on voluntary basis in selected Sectors and States.

2. Invoice Management System and new ledgers:

The Council also took note of the agenda on the enhancements being made to the existing GST return architecture. These enhancements include the introduction of a Reverse Charge Mechanism (RCM) ledger, an Input Tax Credit Reclaim ledger and an Invoice Management System (IMS). Taxpayers would be given the opportunity to declare their opening balance for these ledgers by 31st October 2024.

IMS will allow the taxpayers to accept, reject, or to keep the invoices pending for the purpose of availment of Input Tax Credit. This will be an optional facility for taxpayers to reduce errors in claiming input tax credit and improve reconciliation. This is expected to reduce notices issued on account of ITC mismatch in the returns.

Note: The recommendations of the GST Council have been presented in this release containing major item of decisions in simple language for information of the stakeholders. The same would be given effect through the relevant circulars/ notifications/ law amendments which alone shall have the force of law.

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NOTIFICATIONS

INDIRECT TAX

CUSTOMS (TARIFF)

Notification No. 42/2024-Customs

New Delhi, the 06th September, 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 3 of the Customs Tariff Act, 1975 (51 of 1975) the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 26/2011-Customs, dated the 1st March, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 152(E), dated the 1st March, 2011, except as respects things done or omitted to be done before such rescission.

2. This notification shall come into force on the 7th day of September, 2024.

[F.No. 190354/72/2024-TRU]

CUSTOMS (NON-TARIFF)

Notification No. 60/2024-Customs (N.T.)

New Delhi, 12th September, 2024

G.S.R…. (E).- In exercise of the powers conferred by section 157 read with section 84 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 Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010, namely: -

1. Short title and commencement. -

(1) These regulations may be called the Courier Imports and Exports (Electronic Declaration and Processing) Amendment Regulations, 2024.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010, -

(a) in regulation 2, in sub-regulation (2), for clause (b), the following clause shall be substituted, namely: -

"(b) import or export of goods under any export promotion scheme other than Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) and Rebate of State and Central Taxes and Levies (RoSCTL) schemes referred to in Chapter 4 of the Foreign Trade Policy 2023 and Export Oriented Unit (EOU) scheme, and similar schemes referred to in Chapter 6 of the Foreign Trade Policy 2009-14 or 2015-20 or 2023, as the case may be;";

(b) in regulation 6,-

(i) in sub-regulation (1), after the words "Notwithstanding anything contained in these regulations,", the words "except where the export is under Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) or Rebate of State and Central Taxes and Levies (RoSCTL) schemes," shall be inserted;

(ii) in sub-regulation (3),-

(A) the words "goods notified in Appendix 3C of the Foreign Trade Policy (2015-20), to be exported under the Merchandise Exports from India Scheme (MEIS) or" shall be omitted;

(B) the following proviso shall be inserted, namely: -

"Provided that where the export is under Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) or Rebate of State and Central Taxes and Levies (RoSCTL) schemes, the Authorised Courier or his agent, who has passed the examination referred to in regulation 6 or regulation 13 of the Customs Brokers Licensing Regulations, 2018, shall make entry of goods for export in the electronic integrated declaration referred to in the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulations, 2019.".

[F.No. 455/08/2022-Cus.V]

CIRCULARS

GST (CENTRAL TAX)

Circular No. 230/24/2024-GST

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

New Delhi, dated the 10th September, 2024

Subject: Clarification in respect of advertising services provided to foreign clients–reg.

References have been received from the trade and industry requesting for clarification regarding advertising services being provided by Indian advertising companies/agencies to foreign entities, as some of the field formations are considering the place of supply of the said services as within India, thereby denying the export benefits to such advertising companies.

1.2 In view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues in succeeding paragraphs.

2. ISSUE IN BRIEF

2.1 A foreign company or firm hires an advertising company/agency in India for advertisement of its goods or services and may enter into a comprehensive agreement with the advertising company/agency encompassing all the issues related to advertising services ranging from media planning, investment planning for the same, creating and designing content, strategizing for maximum customer reach, the identification of media owners, dealing with media owners, procuring media space, etc. for displaying/broadcasting/printing of advertisement including monitoring of the progress of the same. In such a case, the advertising agency provides a one stop solution to the client who outsources the entire activity to the agency.

2.2 In this scenario, media owners raise invoice to the advertising agency for inventory costs, which are then paid by the advertising agency. Subsequently, the advertising agency raises invoice to the foreign client for the rendered advertising services and receives the payments in foreign exchange from the foreign client. In this regard, clarification has been sought as to:

a. Whether the advertising company can be considered as an "intermediary" between the foreign client and the media owners in terms of section 2(13) of Integrated Goods and Services Tax Act, 2017 (herein after referred to as the "IGST Act"), thereby resulting in determination of place of supply under section 13(8)(b) of the IGST Act?

b. Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as the recipient of the services being supplied by the advertising company under section 2(93) of CGST Act?

c. Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3)of the IGST Act?

3. CLARIFICATION:

3.1 Issue 1 -Whether the advertising company can be considered as an "intermediary"

between the foreign client and the media owners as per section 2(13) of IGST Act?

3.1.1 As per section 2(13) of IGST Act, read with Circular no. 159/15/2021-GST dated 20.09.2021, a broker, agent or any other person who arranges or facilitates the main supply of goods or services or both or securities and has not involved himself in the main supply on his own account is considered as intermediary.

3.1.2 In the instant scenario, it is observed that the foreign clients enter into a comprehensive agreement with advertising companies/ agencies in India and outsource the entire activity of advertising services to the advertising companies/agencies. Further, these advertising companies/agencies enter into an agreement with the media owners in India for implementing the said media plan and procurement of media space for airing or releasing or printing advertisement.

3.1.3 The advertising agency, in this case, enters into two agreements:

i. With the client located outside India for providing a one stop solution starting from designing the advertisement to its display in the media as agreed to with the client. The advertising company raises invoice to its foreign client for the above advertising services and the payments of the same is received from the foreign client in foreign exchange.

ii. With the media company to procure media space for display of the advertisement and to monitor campaign progress based on data shared by the media company. The media company bills the advertising agency and the payment for same is made by the advertising agency to the media company.

3.1.4 Thus, the agreement, in the instant case, is in the nature of two distinct principal-to- principal supplies and no agreement of supply of services exists between the Media company and the foreign client. The advertising company is not acting as an agent but has been contracted by the client to procure and provide certain services. The advertising agency is providing the services to the client on its own account.

3.1.5 In view of above, it is clarified that in the present scenario, the advertising company is involved in the main supply of advertising services, including resale of media space, to the foreign client on principal-to-principal basis as detailed above and does not fulfil the criteria of "intermediary" under section 2(13) of the IGST Act. Thus, the same cannot be considered as "intermediary" in such a scenario and accordingly, the place of supply in the instant matter cannot be linked with the location of supplier of services in terms of section 13(8)(b) of the IGST Act.

3.2 Issue-2 Whether the representative of foreign client in India or the target audience of the advertisement in India can be considered as the "recipient" of the services being supplied by the advertising company under section 2(93) of CGST Act?

3.2.1 As per Section 2(93)(a) of the CGST Act, the "recipient" of the services means the person who is liable to pay consideration where a consideration is payable for the supply of goods or services or both.

3.2.2 In the instant scenario, the foreign client is liable to pay the consideration to advertising company for the supply of advertising and not the consumers or the target audience that watches the advertisement in India. Further, in this case, even if a representative of the said foreign client based in India, including a subsidiary or related person of the said foreign client, is interacting with the advertising company on behalf of the said foreign client, the said representative

based in India cannot be considered as a recipient of the service, if the agreement is between the foreign client and the advertising company, the invoice is being issued for the said service by the advertising company to the foreign client and the payment for the said service is received by the advertising company directly from the said foreign client. Further, the target audience of the advertisements may be based in India but such target audience cannot be considered as recipient of the said advertising services being supplied by the advertising company as per the definition of the recipient under section 2(93) of CGST Act.

3.2.3 Therefore, in view of above, it is clarified that the recipient of the advertising services provided by the advertising company in such cases is the foreign client and not the Indian representative of the foreign client based in India or the target audience of the advertisements, as per section 2(93) of the CGST Act, 2017.

3.3 Issue-3Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3)of the IGST Act?

3.3.1 The place of supply of performance based services is provided in sub-section (3) of section 13 of IGST Act. The provisions of clause (a) of the said sub-section pertain to the services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services. However, in the instant matter, there does not appear to be any such involvement of goods which are required to be physically available with supplier of advertising services. Therefore, the said provisions of clause (a) of the said sub-section cannot be made applicable for determination of place of supply of advertising services.

3.3.2 Further, clause of (b) of sub-section (3) of section 13(3)(b) of IGST Act provides that the place of supply shall be the location where the services are actually performed in case, where,

a. services are supplied to an individual,

b. represented either as the recipient of services or a person acting on behalf of the recipient, and

c. which requires the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services

3.2.3 In the present scenario, the supply of advertising services does not require physical presence of the recipient (foreign client or representative or a person acting on his behalf) with the advertising company for availing the said advertising services. Thus, the said supply of advertising services cannot be considered as being covered under section 13(3)(b) of the IGST Act for being considered as the services actually performed in India in terms of the said section.

3.3.3 Accordingly, it is clarified that the place of supply of advertising services in such cases can neither be determined as per the provision of section 13(3)(a) nor as per the provisions of section 13(3)(b) of IGST Act.

4. Further, it is observed that in the present scenario, the place of supply of the above-mentioned advertising services does not appear to be covered under any other provisions of sub-sections (3) to (13) of Section 13 of the IGST Act. Therefore, in view of foregoing discussion, it appears that the place of supply of the said advertising service being supplied by the advertising company to the foreign clients can only be determined as per the default provision, i.e. sub-section (2) of section 13 of IGST Act, i.e. the place of location of the recipient of the services. Since the recipient of the advertising services in such scenario is the foreign client, who is located outside India, the place of supply of the said services

appears to be the location of the said foreign client i.e. outside India as per Section 13(2) of IGST Act, and the said service can be considered to be export of services, subject to the fulfilment of conditions mentioned in section 2(6) of IGST Act.

5. However, there may be cases where the advertising company located in India merely acts as an agent of the foreign client in engaging with the media owner for providing media space to the foreign client. In such cases, the agreement/ contract for providing the media space and broadcast of the advertisement is directly between media owner and the foreign client. The media owner directly invoices the foreign client for providing the media space and broadcast of the advertisement and the foreign client remits the payment for the said services directly to the media owner. In such instances, the services of providing media space and broadcasting the advertisement are directly provided by the media owner to the foreign client. In such cases, the advertising company is merely facilitating the provision of the said services of providing media space and broadcasting the advertisement between the foreign client and the media owner and does not provide the said services on its own account. The advertising company invoices the foreign client for the facilitation services provided by it.

5.1 Consequently, in such cases, the advertising company is an "intermediary" in accordance with Section 2(13) of the CGST Act, 2017, as elucidated in Circular No. 159/15/2021-GST dated 20.09.2021, in respect of the said services of facilitating the foreign client and accordingly, the place of supply in respect of the said services provided by the advertising company to the foreign client is determinable as per section 13(8)(b)of IGST Act, i.e. the location of the supplier, i.e. the location of the advertising company.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Circular No. 231/25/2024-GST

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

New Delhi, dated the 10th September, 2024

Subject: Clarification on availability of input tax credit in respect of demo vehicles-reg.

The demo vehicles are the vehicles which the authorised dealers for sale of motor vehicles are required to maintain at their sales outlet as per dealership norms and are used for providing trial run and for demonstrating features of the vehicle to the potential buyers. These vehicles are purchased by the authorised dealers from the vehicle manufacturers against tax invoices and are typically reflected as capital assets in books of account of the authorized dealers. As per dealership norms, these vehicles may be required to be held by the authorized dealers as demo vehicle for certain mandatory period and may, thereafter, be sold by the dealer at a written down value and applicable tax is payable at that point of time.

2. Reference has been received to issue clarification regarding availability of input tax credit in respect of demo vehicles on the following issues:

i. Availability of input tax credit on demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of Central Goods & Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act").

ii. Availability of input tax credit on demo vehicles in cases where such vehicles are capitalized in the books of account by the authorized dealers.

3. In order to ensure uniformity in the implementation of the provisions of law across

the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the above issues as below.

4. Availability of input tax credit on demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of CGST Act.

4.1 **Clause (a) of Section 17(5) of CGST Act** provides that input tax credit shall not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons(including the driver), **except when they are used for making following taxable supplies**, namely:

A. **further supply of such motor vehicles**; or

B. transportation of passengers; or

C. imparting training on driving such motor vehicles.

4.2 The intention of law, as it appears from the use of expression '**when they are used for making the following taxable supplies**' in clause (a) of section 17(5) of CGST Act, is to exclude certain cases (based on the nature of outward taxable supplies being made using the said motor vehicle) from the restriction on availment of input tax credit in respect of the specified motor vehicles i.e. motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver). The taxable supplies, permitted for the purpose of being excluded from the blockage of input tax credit as per provisions of clause (a) of section 17(5) of CGST Act, being further supply of such motor vehicles, transportation of passengers and imparting training on driving such motor vehicles.

4.3 As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it is quite apparent that demo vehicles cannot be said to be used by the authorized dealer for providing taxable supply of transportation of passengers or imparting training on driving such motor vehicles. Therefore, demo vehicles are not covered in the exclusions specified in sub-clauses (B) and (C) of clause (a) of section 17(5) of CGST Act. Accordingly, it is to be seen whether or not the Demo vehicles in question can be said to be used for making "further supply of such motor vehicles", as specified in the sub-clause (A) of the clause (a) of section 17(5) of CGST Act.

4.4 Regarding the provision for blockage of input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), the usage of the words **"such motor vehicles" instead of "said motor vehicle", in sub-clause (A) of the clause (a) of section 17(5) of CGST Act**, implies that the intention of the lawmakers was not only to exclude from the blockage of input tax credit, the motor vehicle which is itself further supplied, but also to exclude from the blockage of input tax credit, the motor vehicle which is being used for the purpose of further supply of similar type of motor vehicles. As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making 'further supply of such motor vehicles'. **Accordingly, input tax credit in respect of demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause**.

4.5 There may be some cases where motor vehicles for transportation of persons having approved seating capacity of not more than

thirteen persons (including the driver) are used by an authorized dealer for purposes other than for making further supply of such motor vehicles, say for transportation of its staff employees/ management etc. In such cases, the same cannot be said to be used for making 'further supply of such motor vehicles' and therefore, input tax credit in respect of such motor vehicles would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act.

4.6 Further, there may be cases where the authorized dealer merely acts as an agent or service provider to the vehicle manufacturer for providing marketing service, including providing facility of vehicle test drive to the potential customers of the vehicle on behalf of the manufacturer and is not directly involved in purchase and sale of the vehicles. In such cases, the sale invoice for the vehicle is directly issued by the vehicle manufacturer to the customer. For providing facility of vehicle test drive to the potential customers of the vehicle, the dealer purchases demo vehicle from the vehicle manufacturer. The dealer may sell the said demo vehicle to a customer after a specified time or kilometres as per agreement with the vehicle manufacturer on payment of applicable GST. In such a case, the authorized dealer is merely providing marketing and/or facilitation services to the vehicle manufacturer and is not making the supply of motor vehicles on his own account. Therefore, the said demo vehicle cannot be said to be used by the dealer for making further supply of such motor vehicles. Accordingly, in such cases, input tax credit in respect of such demo vehicle would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of CGST Act and therefore, input tax credit on the same would not be available to the said dealer.

5. Availability of input tax credit on demo vehicles in cases where such vehicles are capitalized in the books of account by the authorized dealers.

5.1 As per provisions of section 16(1) of CGST Act, every registered taxpayer is entitled to take input tax credit charged on any supply of goods and services made to him, where such goods or services are used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and in the manner which is specified.

5.2 Further, "goods" has been defined in **section 2(52) of CGST Act**, as,

"goods" *means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.*

5.3 Also, **section 2(19) of CGST Act** defines "capital goods" as,

*"**capital goods**" means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.*

5.4 As mentioned in paras above, as the demo vehicles are used by the authorized dealers to promote further sale of motor vehicles of the similar type and therefore, such vehicles appear to be used in the course or furtherance of business of the authorized dealers. Where such vehicles are capitalized in the books of accounts by the authorized dealer, the said vehicle falls in the definition of "capital goods" under section 2(19) of CGST Act. As per provision of section 16(1) of CGST Act, subject to such conditions and restrictions as may be prescribed, a recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods, which as per definition of "goods" under section 2(52) of CGST Act, includes even capital goods. Further, section 2(19)

of CGST Act also recognizes that capital goods are used or intended to be used in the course or furtherance of business. **Accordingly, availability of input tax credit on demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act**.

5.5 However, it is to be mentioned that in case of capitalization of demo vehicles, availability of input tax credit would be subject to provisions of section 16(3) of CGST Act, which provides that where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. It is further mentioned that in case demo vehicle, which is capitalized, is subsequently sold by the authorized dealer, the authorized dealer shall have to pay an amount or tax as per provisions of section 18(6) of CGST Act read with rule 44(6) of the Central Goods and Service Tax Rules, 2017.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Circular No. 232/26/2024-GST

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

New Delhi, dated the 10th September, 2024

Subject: Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India-reg.

Representations have been received from the trade and industry seeking clarification on the place of supply in case of data hosting services provided by service providers located in India to cloud computing service providers located outside India.

2. Issue

2.1 It has been represented that some field formations are of the view that the place of supply of data hosting services provided by the service providers located in India to cloud computing service providers located outside India is the location of data hosting service provider in India and therefore, the benefit of export of services is not available on such supply of data hosting services.

2.2 Thus, clarification has been sought in respect of the following issues-

(i) Whether data hosting service provider qualifies as 'Intermediary' between the cloud computing service provider and their end customers/users/subscribers as per Section 2(13) of the Integrated Goods and Services Tax Act, 2017 (herein after referred to as the "IGST Act") and whether the services provided by data hosting service provider to cloud computing service providers are covered as intermediary services and whether the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.

(ii) Whether the data hosting services are provided in relation to goods "made available" by recipient of services to service provider for supply of such services and whether the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act.

(iii) Whether the data hosting services are provided directly in relation to "immovable property" and whether the place of supply of the same is to be determined as per section 13(4) of the IGST Act.

3. Clarification

3.1 **Whether data hosting service provider qualifies as 'Intermediary' between the cloud computing service provider and their end**

customers/users/subscribers as per Section 2(13) of the IGST Act and whether the services provided by data hosting service provider to cloud computing service providers are covered as intermediary services and whether the place of supply of the same is to be determined as per section 13(8)(b) of IGST Act.

3.1.1 As per section 2(13) of the IGST Act, read with Circular no. 159/15/2021-GST dated 20.09.2021, a broker, agent or any other person who arranges or facilitates the main supply of goods or services or both or securities and has not involved himself in the main supply on his own account is considered as 'intermediary'. Persons who supply goods or services, or both on their own account are not covered in the definition of "intermediary".

3.1.2 The cloud computing service providers generally enter into contract with data hosting service providers to use their data centres for hosting cloud computing services. Data hosting service provider either owns premises for data centre or operates data centre on leased premises, procures infrastructure and human resource, handles operations like infrastructure monitoring, IT management and equipment maintenance, etc. to provide the said supply of data hosting services to the cloud computing service providers. The data hosting service provider generally handles all aspects of data centre like rent, software and hardware infrastructure, power, net connectivity, security, human resource, etc. Importantly, the data hosting service providers do not deal with end users/consumers of cloud computing services and may not even know about the end users.

3.1.3 It is observed that data hosting service provider provides data hosting services to the cloud computing service provider on a web platform through computing and networking equipment for the purpose of collecting, storing, processing, distributing, or allowing access to large amounts of data. The cloud computing service provider provides cloud-based applications and software services to various end users/customers/ subscribers for data storage, analytics, artificial intelligence, machine learning, processing, database analysis and deployment services, etc.. The end users/customers/subscribers access cloud computing services seamlessly over the internet through technology hosted on data centers. There appears to be no contact between data hosting service provider and the end users/ consumers/ subscribers of the overseas cloud computing service provider. Thus, it is observed that the data hosting service provider provides data hosting services to the cloud computing service provider on principal-to-principal basis on his own account and is not acting as a broker or agent for facilitating supply of service between cloud computing service providers and their end users/consumers.

3.1.4 Accordingly, it is clarified that in such a scenario, the services provided by data hosting service provider to its overseas cloud computing service providers cannot be considered as intermediary services and hence, the place of supply of the same cannot be determined as per section 13(8)(b) of IGST Act.

3.2 Whether the data hosting services are provided in relation to goods "made available" by recipient of services to service provider for supply of such services and whether the place of supply of the same is to be determined as per section 13(3)(a) of the IGST Act, 2017.

3.2.1 Section 13(3)(a) of the IGST Act provides that in cases where the services are supplied in respect of goods which are made physically available by the recipient of services to service provider, the place of supply will be location of service provider.

3.2.2 In the instant scenario, it is observed that the data hosting service provider, as an independent entity, is providing seamless data hosting services to the overseas cloud computing service providers, through the premises, hardware and personnel at the data centre which not only comprises of hardware but also other essential infrastructure (without which the hardware infrastructure cannot be utilized) like ventilation and cooling system, uninterrupted power supply, software, network

connectivity, security protocols, etc. which are owned by the data hosting service providers and are independently handled, operated, monitored and maintained by them. These data hosting service providers are charging their clients (cloud computing service providers), the charges for the services being provided by them to these clients as consideration depending on the specific terms and conditions as per agreements between them. From the above, it is observed that throughout the provision of the said services, the data hosting service provider owns premises for data center or operates data center on leased premises, independently handles, monitors and maintains the premises, hardware and software infrastructure, personnel and in such scenario, the overseas cloud computing service providers cannot be considered to own the said infrastructure and make the same physically available to the data hosting service provider for supply of the said services

3.2.3 In view of above, it is clarified that data hosting services provided by data hosting service provider to the saidcloud computing service providers cannot be considered in relation to the goods "made available" by the said cloud computing service providers to the data hosting service provider in India and hence, the place of supply of the same cannot be determined under section 13(3)(a) of the IGST Act.

3.2.4 There may be some cases where some of the hardware required for data hosting service is provided by the recipient of the service, i.e., the cloud computing service provider to the data hosting service provider. Even in these cases, data hosting service provider handles all aspects of data centre, like arranging for the premises, making available software and other hardware infrastructure, power, net connectivity, security, human resource, maintenance etc., for providing data hosting services to the cloud computing service provider. Accordingly, in such cases, though the data hosting services is being provided by the data hosting service provider inter-alia using the hardware made available by the cloud computing service provider, it cannot be said that data hosting service are being provided in relation to the said goods made available by the cloud computing service provider to them. Accordingly, even in these cases, place of supply cannot be determined under section 13(3)(a) of the IGST Act..

3.3 Whether the data hosting services are provided directly in relation to "immovable property" and whether the place of supply of the same is to be determined as per section 13(4) of the IGST Act.

3.3.1 Section 13(4) of the IGST Act provides for the place of supply where services supplied are directly in relation to immovable property.

3.3.2 In the present scenario, it is observed that the data hosting service providers either use owned or leased premises for keeping IT infrastructure and other hardware required for providing data hosting services. They also procure hardware, uninterrupted power supplies, backup generators, ventilation and cooling equipment, network connectivity, fire suppression systems, security, human resource, etc.; handle operations like server monitoring, IT management and equipment maintenance, including repairs and replacements of the same, for providing data hosting services to their clients.

3.3.3 Thus, it is observed that data hosting services are not passive supply of a service directly in respect of immovable property but are regarding supply of a comprehensive service related to data hosting which involves the supply of various services by the data hosting service provider like operating data centre, ensuring uninterrupted power supplies, backup generators, network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for cloud computing service provider to provide cloud computing services to the end users/ customer/subscribers.

3.3.4 Accordingly, it is clarified that in such a scenario, the data hosting services cannot be considered as the services provided directly in relation to

immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) of IGST Act.

4. Further, the place of supply for the data hosting services provided by data hosting service provider located in India to overseas cloud computing service providers does not appear to fit into any of the specific provisions outlined in sections 13(3) to 13(13) of the IGST Act. Therefore, the place of supply in such cases needs to be determined according to the default provision under section 13(2) of the IGST Act, i.e. the location of the recipient of the services. Where the cloud computing service provider receiving the data hosting services are located outside India, the place of supply will be considered to be outside India according to section 13(2) of the IGST Act.

5. Accordingly, supply of data hosting services being provided by a data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Circular No. 233/27/2024-GST

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

New Delhi, dated the 10th September, 2024

Subject: Clarification regarding regularization of refund of IGST availed in contravention of rule 96(10) of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess - regarding.

Sub-rule (10) of rule 96 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") provides for a bar on availment of the refund of integrated tax (IGST) paid on export of goods or services, if benefits of certain concessional/exemption notifications, as specified in the said sub-rule, have been availed on inputs/raw materials imported or procured domestically. In this regard, references have been received from the field formations and trade/ industry wherein clarification has been sought on whether refund of integrated tax paid on exports of goods by a registered person can be regularized in a case where the registered person had initially imported inputs without payment of integrated tax and compensation cess, by availing the benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, at a later date, the said person has either paid the IGST and compensation cess, along with interest, on such imported inputs or is now willing to pay such IGST and compensation cess, along with interest.

2. The issue has been examined and in order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the following:

2.1 Vide Notification No. 16/2020-CT dated 23.03.2020, an Explanation was inserted in sub-rule (10) of rule 96 of CGST Rules retrospectively with effect from 23.10.2017, which reads as follows:

"Explanation. - For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications."

2.2 A bare perusal of the said Explanation, which was inserted with retrospective effect, reveals that in cases where the benefits of these exemption notifications have not been availed in respect

of IGST and compensation cess, it shall be deemed that benefit of the said notifications has not been availed for the purpose of sub-rule (10) of rule 96 of CGST Rules. Therefore, extension of logic given in the said Explanation may lead to a view that in cases where inputs were initially imported without payment of integrated tax and compensation cess but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, then in such cases, it can be considered that the benefits of notifications mentioned in clause (b) of sub-rule (10) of rule 96 of CGST Rules have not been availed for the purpose of said sub-rule. Accordingly, refund of IGST claimed on exports made with payment of Integrated tax in such cases may not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

2.3. In view of the above, it is clarified that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs are paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST, paid on exports of goods, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

JUDGEMENT

INDIRECT TAX

Delhi HC issued notice to GST officials to appear and clarify irregularities & procedural flaws in orders and notices

Facts of the case - Raj Kumar Kukreja v. Principal Commissioner Delhi GST - [2024](Delhi)

In the present case, the petitioner received show cause notice which didn't specify the name or designation of the officer before whom the petitioner had to appear. Thereafter, the order of cancellation of registration was passed with retrospective effect from 1st July 2017 and it didn't give any reason but simply stated that no reply to the show cause notice had been submitted. The petitioner filed writ petition against the order.

Decision of the case :

- The Honorable High Court noted that the impugned order did not bear the signature and attached documents were digitally signed by "DS Goods and Services Tax Network 07". The Court also noted a pattern of similar procedural flaws in GST orders and notices which highlighted a potential systemic issue.
- Therefore, the Delhi High Court issued a notice to the Principal Commissioner of GST and the Director of "DS Goods and Services Limited" to appear and clarify irregularities in GST orders and notices.

Order uploaded in 'View Additional Notices' tab was quashed; HC directed dept. to provide opportunity to contest proceedings

Facts of the case - Murugesan Jayalakshmi v. State Tax Officer - [2024](Madras)

The petitioner, a registered person under the GST regime, claimed that she was unaware of the notices and the impugned assessment orders until she received an oral intimation from the GST office. The petitioner stated that the intimation, show cause notices and assessment orders were posted in the 'View Additional Notices' tab on the GST portal. Since such documents were earlier uploaded on the 'View Notices' tab on the portal, the petitioner was unaware of the proceedings.

The matter was related to reversal of Input Tax Credit (ITC) and it would be necessary for the petitioner to place relevant documents on record and, if necessary, cross-examine persons whose statements were relied upon by the assessing officer. Therefore, it filed writ petition since the appellate remedy would be inadequate for such purpose.

Decision of the case :

- The Honorable High Court noted that the impugned notices and assessment orders were uploaded on the 'View Additional Notices' tab in the GST portal. Earlier, such notices and orders were uploaded on the 'View Notices' tab. It was also brought to the notice of the court that the GST authorities have redesigned the dashboard of the portal in January 2024 and clearly specified the type of notices and orders which may be viewed under the 'View Notices' tab and the 'View Additional Notices' tab.
- In the above circumstances, solely with a view to provide an opportunity to the assessee to contest the proceedings, the Madras High Court quashed the assessment orders passed by the GST authorities.

Period of limitation for filing appeal shall commence from date of actual service, not from original date of order: HC

Facts of the case - Vibgyor Services v. Union of India - [2024] (Delhi)

In the present case, the assessee preferred appeal against Order-in-Original. The Appellate Authority rejected appeal as time-barred based on date of Order-in-Original since it was filed after prescribed 90 days. The assessee filed writ petition and contended that Order-in-Original was never served and it received copy of order later on.

Decision of the case :

- The Honorable High Court noted that admittedly the impugned Order-in-Original was undelivered and no further service attempts were made by the department. The Court also noted that the appeal period would start from date of service, not from the date of Order-in-Original.
- In the instant case, the appeal was filed within 90 days of receiving order and therefore it was filed within limitation. Thus, the Court held that the impugned Order-in-Appeal rejecting appeal on limitation grounds was set aside and appeal was directed to be restored to its original number on the records of the Commissioner (Appeals).

Another opportunity should be provided if Proper officer was of view that reply was incomplete and further details required: HC

Facts of the case - Federal Bank Ltd. v. Assistant Commissioner DGST - [2024](Delhi)

In the present case, the petitioner received a show cause notice and it submitted detailed reply in pursuance to the show cause notice. However, the impugned order was passed next day in a very cryptic manner without giving any reason and it merely stated that "reply was not clear and satisfactory". It filed writ petition against the order.

Decision of the case :

- The Honorable High Court noted that a detailed reply was furnished by the petitioner giving full disclosures against the said show cause notice but the impugned order, however, after recording the narration, stated that the reply uploaded by the tax payer was incomplete, not duly supported by adequate documents and unable to clarify the issues.
- The Court further noted that in case the Proper Officer was of the view that reply was incomplete and further details were required, the same could have been sought from the petitioner. However, the record did not reflect that any such opportunity was given to the petitioner to clarify its reply or furnish further documents/details. Therefore, the Court held that impugned order was liable to be set aside and the Proper Officer shall re-adjudicate the show cause notice within a period of two weeks after giving an opportunity of hearing.

Duty free shops at airports are liable to pay GST on services availed from Airport Authority of India: HC

Facts of the case - Flemingo Duty Free Shop (P.) Ltd. v. Union of India - [2024](Punjab & Haryana)

The petitioner was operating duty-free shops at international airports and it had entered into a concession agreement with the Airport Authority of India (AAI) to operate these shops. The agreement stipulated that the company would pay a 'licence fee' to AAI. It was of the opinion that it wasn't liable to pay GST on the licence fee since it was a duty-free shop.

The department was of the view that it was liable to pay GST on the licence fees but it can claim a refund. It filed writ petition against it but the divergent views emerged in 2 Judges division bench, with one judge proposing modification to require tax payment by petitioner, while another restrained petitioner from paying GST. The matter was placed before Hon'ble Third Judge.

Decision of the case :

- The Honorable High Court relied on the decision of Sandeep Patil v. Union of India 2020 (372) E.L.T. 794 (Bom.) and CIAL Duty Free and Retail Services

Limited v. Union of India in CWP (C) No.12274 of 2020 where it was held that the operators of duty-free shops were exempt from GST on the sale of goods to passengers but liable to pay GST on the input services received.

- The Court also pointed out that the concession agreement between the petitioner and AAI was clear and the petitioner was unequivocally obligated to pay GST on the services provided by AAI. Therefore, the Court directed the petitioner to reimburse AAI for the GST paid on its behalf, along with interest, as per the terms of the concession agreement. Thereafter, it can claim the ITC, and then apply for a refund of the accumulated ITC from the relevant tax authorities.

DIRECT TAX

HC allows use of seized docs from lawyer's office if they were incriminating against assessee

Facts of the case - Maulikkumar Satishbhai Sheth v. ITO - [2024] (Gujarat)

The petitioner, a practicing advocate, was searched by the Income-tax Officials (AO) under section 132 of the Income-tax Act. During the search operation, the AO gathered digital and physical documents from the petitioner's residence and office premises.

The petitioner contended that the revenue cannot take any action based on any document, much less any incriminating documents of the petitioner's client found during the search.

Decision of the case

- The Gujarat High Court held that the petitioner was a practicing advocate and is protected as per the provision of Section 126 of the Evidence Act. The reliance on various decisions on the protection granted to the professional under Section 126 of the Evidence Act was placed by both the petitioner and AO.

- The court held that the provision of Section 126 of the Evidence Act would not per se apply to the facts of the case. As per the provision of Section 132, the documents were seized by the AO during the search operation. As per Section 132(4A), the AO is entitled to seize the materials available during the search operation.

- The petitioner was a practising advocate, and the AO had gathered digital and physical documents from his residence and office premises. AO is entitled to have the presumption with regard to the documents and other materials seized during the search operation.

- Accordingly, If such documents are found to be incriminating, leading to any tax evasion, then AO is entitled to consider the same in accordance with the law without any restrictions as to whether the petitioner is involved in any manner or whether such documents are pertaining to or belonging to the petitioner or not.

HC slams PCCIT for granting approval to reassessment without considering that there was no escapement of income

Facts of the case - Vodafone India Ltd Versus Deputy Commissioner of Income Tax, Circle 5(2)(1), Mumbai & Ors [2024]

The petitioner, Vodafone India Ltd. filed the petition against the order passed by the Principal Chief Commissioner of Income Tax (PCCIT) granting approval for issuing a notice under section 148 of the Income Tax Act, 1961.

The petitioner contended that the PCCIT granted approval without applying his mind mechanically. The amount mentioned in the order passed under section 148A(d) was less than that mentioned in the notice. The PCCIT had not even explained how the amount had changed or gone down.

Decision of the case :

- The High Court held that the approval had been granted in a most casual manner. The power vested in the Authorities u/s 151 to grant or not to grant approval to the AO to reopen the assessment is coupled with a duty. The Authorities were duty-bound to apply their mind to the proposal put up for approval in the light of material relied upon by the AO.
- That power cannot be exercised casually in a routine, perfunctory manner. The important safeguards provided in Sections 147 and 151 were treated lightly by the officers. While recommending and granting approval, it was obligatory on the part of the officers to verify whether there was any genuine material to suggest escapement of income.
- It was obligatory for all the authorities and PCCIT to consider whether the power to reopen was being invoked properly. The High Court held that if only the Authorities had read the record carefully, they would never have come to the conclusion that this is a fit case for issuance of notice u/s 148 of the Act. They would have either told the AO to correct the figures or would have sent the papers back for reconsideration. These officers have substituted the form for substance.
- Thus, the High Court quashed and set aside the order passed u/s 148A(d) of the Act. The consequent notice issued u/s 148 of the Act was also quashed and set aside.

Issuance of Sec. 148A(b) notice for AY 2015-16, not in continuation of Sec. 148 notice, was time-barred: Delhi HC

Facts of the case - Genpact India (P.) Ltd. vs. ACIT - [2024] (Delhi)

The assessee-company was engaged in providing business process outsourcing services, data modelling and analytics support, managed IT services, software solutions and e-learning. The reassessment proceedings were initiated for the relevant assessment year based on the information received pursuant to a survey carried out at the assessee's premises. In response to the notice under section 148, the assessee furnished its return of income for the relevant assessment year.

Subsequently, contending that the notice under section 148A(4) to be issued to comply with the directions of the Supreme Court in the case of Ashish Agarwal & Others [2022] 138 taxmann.com 64 (SC), the Assessing Officer (AO) issued a notice under section 148A(4) for the same assessment year.

The assessee filed a writ petition to the Delhi High Court contending that the reassessment proceedings were barred by limitation.

Decision of the case :

- The High Court held that the notice under section 148 was issued in continuation of the original notice dated 30-06-2021. However, by the time the notice under section 148A was issued, the terminal point for the commencement of reassessment, i.e., 31-03-2022, had already passed.
- There was no declaration of invalidity that came to be rendered in respect of the notice issued to the assessee. There was no judgment rendered inter partes, which may have struck down the reassessment notice as being invalid or contrary to the statutory regime that came into effect from 01-04-2021. The notice of 30-06-2021 remained unscathed and unimpacted. Consequently, there arose no need for its revival or resuscitation.
- Ashish Agarwal had mandated a revival of notices that had been struck down by various High Courts and modified the judgments rendered in respect of those notices. Consequent to the decision of the Supreme Court, those judgments came to be modified with the notices being revived and ordained to be treated as having been issued under Section 148A(b).
- The assessee had not instituted any legal proceedings before any court to assail the notice dated 30-6-2021, nor was it a party to the batch of the writ petition, which came to be ultimately allowed by the Court. Thus, the notice issued on 27-05-2022 was not a continuation or substitution of the original notice dated 30-06-2021. Therefore, the

notice issued on 27-05-2022 was in contravention of the First Proviso to section 149(1) and was barred by prescription of limitation.

AO can't levy penalty for misreporting of income if additions were made on estimate basis: ITAT

Facts of the case - VDB Infra and Realty (P.) Ltd. & Income-tax Officer - [2024] (Bangalore - Trib.)

The assessee company was engaged in constructing apartments and flats. It claimed various expenditures, including depreciation, incurred wholly and exclusively for business. The Assessing Officer (AO) disallowed farm fire safety expenses and tor steel rolling expenses because the assessee could not substantiate his expenses with concrete evidence.

Accordingly, the AO passed penalty order levying penalty under section 270A(9)(a) stating that there was misreporting of income.

On appeal, the CIT(A) confirmed the penalty imposed by AO under section 270A(9)(a). Aggrieved by the order, the assessee filed an appeal to the Bangalore Tribunal.

Decision of the case :

- The Tribunal held that the assessee produced the books of accounts and vouchers and that the payments were made through banking channels. The payments that were subject to tax deduction were deducted. Still, the AO was of the opinion that the assessee did not produce concrete evidence to support the payments.
- The disallowance of expenditure made by the AO on an estimate basis, though the assessee filed all the necessary details of expenditure, which the AO did not accept for the reason best known to him and as such, this case is not fit for levy of penalty under section 270A(9)(a) or 270A(9)(c). Though the addition was made on an ad-hoc basis, that by itself does not prove that there was any conclusive material to suggest that the assessee had not incurred this expenditure. A penalty cannot be levied in this kind of situation unless the assessee's claim was proved to be bogus or that any amount was not spent by the assessee or received back by the assessee.
- In other words, the disallowance of expenditure by itself cannot be the reason to levy the penalty under section 270A(9)(a) or 270(9)(c). The addition was only on an estimate basis, and the AO could not prove that there was a non-incurring of this expenditure by the assessee. There was no positive material to suggest that the assessee misrepresented or suppressed any facts either before the AO or CIT(A).
- Hence, it was opined that this was not a fit case for penalty under section 270A(9)(a) or 270A(9)(c). Accordingly, the penalty was deleted.

LLC incorporated in USA and recognized as separate existence from its members is eligible for treaty benefit: ITAT

Facts of the case - General Motors Company USA vs. ACIT - [2024] (Delhi - Trib.)

The assessee, a Limited Liability Company (LLC) incorporated in the USA, obtained a Tax Residency Certificate (TRC) from the US Internal Revenue Service in accordance with section 90 of the Act. During the assessment proceedings, the Assessing Officer (AO) denied the assessee the benefit of lower withholding tax rate available under the India-USA DTAA.

The AO contended that as per Article 4 of the India-USA DTAA, only the persons or entities liable to tax in their country under the laws of their country are considered residents for the purpose of DTAA. Since the assessee was not liable to tax in the USA, the benefit of DTAA was denied. The matter reached the Delhi Tribunal.

Decision of the case :

- The Tribunal held that the AO considered the status of the assessee as an LLC and a fiscally transparent entity according to US Tax laws. The treaty benefit

was denied because the assessee was not considered a person liable to tax in the USA. For the purpose of Paragraph 1(b) of Article 4 of India-USA DTAA, the AO concluded that the LLC did not come under the special clauses for partnerships and trusts and holding specifically that the assessee was a corporation (LLC) in the eyes of US tax laws.

- It is pertinent to note that under US federal income tax law, an LLC with a single owner is disregarded as separate from its owner unless the LLC elects to be treated as a corporation for US federal income tax purposes. The ability of the LLC to elect its tax classification under US federal income tax law also supports the legal situation or aspect of the LLC being liable to tax.
- Thus, the assessee being a resident under Article 4 of the Indo-US Tax Treaty by virtue of incorporation and its recognition as a separate existence from its Members qualifies as a 'person'. The assessee is liable to tax in the resident State by virtue of US Income-tax Law as an LLC is given the option to either be taxed as a corporation or be taxed as a disregarded entity or partnership (depending on the number of members) wherein the income of the LLC is clubbed in the hands of its owner who merely discharges the tax that is assessable in the case of the LLC.
- Therefore, the assessee is liable to tax under the authority of the US Income-tax law. The intent of the Indo-US Treaty has to be given precedence wherein the concept of fiscally transparent entity is the recognized way of recognizing the phrase 'liable to tax.'
- Thus, the assessee was eligible to claim the benefits of the India-US tax treaty as it satisfied all the conditions for the eligibility at benefits of the India-US tax treaty and that the assessee was eligible to claim a beneficial rate of DTAA.

TAX CALENDAR

INDIRECT TAX

Due Date	Returns
Sept 20th, 2024	Tax payers having an aggregate turnover of more than Rs.5 crores [Form GSTR - 3B]
	Tax payers having an aggregate turnover up to Rs.5 cr and not opted for QRMP [Form GSTR - 3B]
	OIDAR service provider [Form GSTR - 5A]
Sept 22nd, 2024	Tax payers having an aggregate turnover up to Rs.5 cr and opted for QRMP: (applicable only for following states) Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep [Form GSTR - 3B]
Sept 24th, 2024	Tax payers having an aggregate turnover up to Rs.5 cr and opted for QRMP: (applicable only for following states) Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi [Form GSTR - 3B]
Sept 25th, 2024	Payment of GST by Registered person opted to file return under QRMP scheme [Form PMT-06]
Sept 28th, 2024	Persons who have been issued a Unique Identity Number and claims a refund of the taxes paid on their inward supplies [Form GSTR - 11]

DIRECT TAX

Due Date	Returns
Sept 30th, 2024	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S (by specified person) in the month of August, 2024
	Application for the exercise of option under clause (2) of the Explanation to sub-section (1) of section 11 of the Income-tax Act, 1961 (if the assessee is required to submit return of income on November 30, 2024, in Form 9A
	Statement to be furnished to the Assessing Officer/Prescribed Authority under clause (a) of the Explanation 3 to the third proviso to clause (23C) of section 10 or under clause (a) of sub-section (2) of section 11 of the Income-tax Act, 1961 (if the assessee is required to submit return of income on November 30, 2024) in Form 10
	Due date for filing of audit report under section 44AB for the Assessment Year 2024-25 in the case of a corporate assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2024 in Form 3CA-CD / Form 3CB-CD

Due Date	Returns
	Audit Report under clause (ii) of section 115VW of the Income-tax Act, 1961 (if due date of submission of return of income is October 31, 2024) in Form 66
	Audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of subsection (1) of section 12A of the Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution. (if due date of submission of return of income is October 31, 2024) in Form 10B
	Audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution which is required to be furnished under clause (b) of the tenth proviso to clause (23C) of section 10 or a trust or institution which is required to be furnished under sub-clause (ii) of clause (b) of section 12A (if due date of submission of return of income is October 31, 2024) in Form 10BB
	Audit report under sections 80-I(7)/ 80-IA(7)/ 80-IB/ 80-IC/80-IAC/80-IE (if due date of submission of return of income is October 31, 2024) in Form 10CCB
	Report under section 80JJAA of the Income-tax Act, 1961 (if due date of submission of return of income is October 31, 2024 in Form 10DA
	Report under section 115JB of the Income-tax Act, 1961 for computing the book profits of the company (if due date of submission of return of income is October 31, 2024) in Form 29B
	Report under section 115JC of the Income-tax Act, 1961 for computing Adjusted Total Income and Alternate Minimum Tax of the person other than a company (if due date of submission of return of income is October 31, 2024 in Form 29C
	Due date for filing audit report under section 33AB(2), 33ABA(2), 35D(4)/35E(6) of Income-tax Act, 1961 (if due date of submission of return of income is October 31, 2024) in Form 3AC, Form 3AD, Form 3AE
	Statement regarding preliminary expenses incurred to be furnished under proviso to clause (a) of sub-section (2) of section 35D of the Income-tax Act, 1961 by the assessee (if due date of submission of return of income is October 31, 2024) in Form 3AF
	Audit report under sub-section (2) of section 44DA of the Income-tax Act, 1961 (if due date of submission of return of income is October 31, 2024) in Form 3CE
	Report of an accountant to be furnished by an assessee under sub-section (3) of section 50B of the Income-tax Act, 1961 relating to computation of capital gains in case of slump sale (if due date of submission of return of income is October 31, 2024 in Form 3CEA
	Report under section 10AA of the Income-tax Act, 1961 (if due date of submission of return of income is October 31, 2024) in Form 56F

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
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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

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