

October, 2024

TAX Bulletin

Volume - 170
17.10.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100



VISION STATEMENT

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

MISSION STATEMENT

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

Objectives of Taxation Committees:

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

October, 2024

TAX Bulletin

Volume - 170
17.10.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100



The Institute of Cost Accountants of India

Statutory Body under an Act of Parliament

www.icmai.in

Certificate Courses Offered by the Tax Research Department

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

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

Modalities

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

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

Eligibility Criteria for Admission

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

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

Course Details

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

Courses for Colleges & Universities by the Tax Research Department

Modalities

Eligibility

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

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

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

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

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



Chairman's Message

CMA Rajendra Singh Bhati
Chairman Direct Taxation Committee



As we celebrate Navratri, Dussehra and Durga Puja this fortnight, may the divine grace of the almighty bestow strength, health, and prosperity upon you. Wishing you and your family a joyful Navratri, Dussehra and Durga Puja!

The direct tax front for this fortnight has been quite interesting. The Direct Tax Vivad Se Vishwas (DTVSV) Scheme, 2024, was announced in the Union Budget 2024-25 by the Union Finance Minister to resolve pending income tax disputes and this has come into force since 1st October, 2024. Along with this a guidance note has also been issued by CBIC on the 15th of this month to provide clarity on this scheme. The issues which have been addressed in this scheme has been:

1. Which appeals are covered under Direct Tax Vivad Se Vishwas Scheme, 2024 ?
2. Which cases are not covered under DTVSV Scheme 2024?
3. Kindly provide the amount payable on the tax arrears as per the DTVSV Scheme, 2024?
4. What are the various Forms specified in the Scheme?
5. What are the various timelines specified in the Scheme?
6. Kindly clarify which assessments shall be considered to have been made on the basis of search initiated under section 132/132A of the Act?
7. A taxpayer is evaluating to close few years in DTVSV Scheme, 2024 out of 4 rollback years. Whether Advance Pricing Agreement can be pursued for remaining years of the 4 rollback years?
8. Suppose a taxpayer is eligible to apply for DTVSV Scheme, 2024 as his appeal is pending as on 22.7.2024. But subsequently, before the taxpayer could file declaration under the DTVSV

Scheme 2024, his appeal has been disposed of. Can such a taxpayer still file declaration under the Scheme? And many more such issues.

In this regards, on the part of TRD a webinar was conducted on 15.10.2024 to understand this scheme practically. The topic has been, "Vivaad se Vishwas Scheme, 2024" and the faculty for the session has been CMA Niranjana Swain, Cost Accountant and Advocate.

The Institute has submitted a letter dated 17th September, 2024 under the signature of the President of the Institute to the Member Secretary, Committee for Comprehensive Review of the Income Tax Act, 1961, New Delhi in the matter of Stakeholder consultation for Comprehensive Review of the Income Tax, 1961 describing some important areas where the provisions of the Act need to be re-written. Tax Research Department has announced "CMA Tax Volunteer Scheme" through the Institute's website in soliciting suggestions from the Members, Resource Persons as well from the Regional Councils and Chapters in this matter. I expect your positive response in this matter in large numbers so as to submit our suggestions to the Committee for Comprehensive Review of the Income Tax Act, 1961 in a successful manner.

Also the classes for all the Taxation Courses has been completed this fortnight. The publication of Tax Bulletin and conduct of quiz is done periodically.

All the best to Team TRD for their efforts.

CMA Rajendra Singh Bhati

Chairman – Direct Taxation Committee

The Institute of Cost Accountants of India

17.10.2024



Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee



This fortnight has been really special as the Navratri, Dussehra and Durga Puja has been celebrated all across the country. I would like to start by wishing all the readers with endless joy, health and success on this auspicious occasion.

Coming back to work the most important notifications that have come up in this fortnight has been:

1. The Clarifications regarding applicability of GST on certain services [Circular No. 234/28/2024-GST] which touches upon sectors like:

- Affiliation Services by Universities to Colleges
- Affiliation Services by Educational Boards to Schools
- Flying Training Courses Approved by DGCA
- Passenger Transport by Helicopter
- Ancillary Services by Goods Transport Agencies (GTAs)
- Import of Services by Foreign Airline Companies
- Preferential Location Charges (PLC) in Real Estate
- Support Services by Electricity Distribution Utilities

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

17.10.2024

- Services by Film Distributors and Exhibitors
2. The Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 54th meeting held on 9th September 2024 at New Delhi [235/29/2024-GST]. The purview of this notification extends over:
- GST on Extruded/Expanded Savory Food Products
 - GST on Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways
 - GST on Car and Motorcycle Seats
3. and Clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings [236/30/2024-GST] all published by the CBIC on the 11th of October.

The practitioners and people working in the field of GST are requested to take a note of these changes as they would streamline many of the activities in manufacturing and service.

The department in this fortnight completed the classes for all the Taxation Courses. The publication of Tax Bulletin and conduct of quiz is done systematically. I wish the very best to the department and the Resource Persons for their consistent efforts.

TAXATION COMMITTEES 2024 - 2025

Indirect Taxation Committee

Permanent Invitees

CMA Bibhuti Bhusan Nayak - President
CMA T C A Srinivasa Prasad - Vice-President

Chairman

1. CMA Dr. Ashish P. Thatte

Members

2. CMA Navneet Kumar Jain
3. CMA Avijit Goswami
4. CMA Dr. K Ch A V S N Murthy
5. CMA Rajendra Singh Bhati
6. CMA Manoj Kumar Anand
7. CMA Dr. V. Murali
8. CMA Mallikarjun Gupta, Co-opted

Secretary

CMA Kushal Sengupta, Director

Direct Taxation Committee

Permanent Invitees

CMA Bibhuti Bhusan Nayak - President
CMA T C A Srinivasa Prasad - Vice-President

Chairman

1. CMA Rajendra Singh Bhati

Members

2. CMA Dr. Ashish P. Thatte
3. CMA Manoj Kumar Anand
4. CMA Chittranjan Chattopadhyay
5. CMA Dr. V. Murali
6. CMA Suresh Rachappa Gunjalli
7. CMA Dr. K Ch A V S N Murthy
8. CMA Rajagopal, Co-opted
9. CMA Mrityunjay Acharjee, Co-opted
10. CMA Sachin Kathuria, Co-opted

Secretary

CMA Kushal Sengupta, Director

EDITORIAL BOARD

CMA B M Gupta
CMA Rahul Renavirkar

CMA Navneet Jain
CMA Mrityunjay Acharjee

ACKNOWLEDGEMENTS

CMA Ashok B. Nawal
CMA Mrityunjay Acharjee
CMA Amit Sarker
CMA Vishwanath Bhat
CMA Bhogavalli Mallikarjuna Gupta
CMA T K Jagannathan
CMA Shiba Prasad Padhi
CMA Niranjana Swain

CMA Navneet Kumar Jain
CMA Anil Sharma
CMA Arindam Goswami
CMA Manmohan Daga
CMA Debasmita Jana

TEAM TAX RESEARCH DEPARTMENT

CMA Kushal Sengupta	-	Director - Tax Research
CMA Tinku Ghosh Das	-	Joint Director - Tax Research
CMA Priyanka Roy	-	Deputy Director - Tax Research
Ms. Mukulika Poddar	-	Senior Officer - Tax Research

CONTENTS

ARTICLES		
01	Goods and Services Tax (GST) Provisions for Works Contractors Operating in States Outside of Registration - CMA Bhogavalli Mallikarjuna Gupta	PAGE - 1
02	Unraveling the Tax Benefits: A Deep Dive into 80GGB and 80GGC - CMA Debasmita Jana	PAGE - 6
PRESS RELEASES		
Direct Tax		PAGE - 11
NOTIFICATIONS		
Indirect Tax		PAGE - 23
CIRCULARS		
Indirect Tax		PAGE - 33
Direct Tax		PAGE - 35
JUDGEMENT		
Indirect Tax		PAGE - 37
Direct Tax		PAGE - 39
TAX CALENDAR		
Indirect Tax		PAGE - 43
Direct Tax		PAGE - 43
PUBLICATIONS		
E-Publications of Tax Research Department		PAGE - 45

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

Goods and Services Tax (GST) Provisions for Works Contractors Operating in States Outside of Registration

CMA Bhogavalli Mallikarjuna Gupta

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



Introduction

There is a common misconception that a contractor must register for GST in every state where they have a works contract. For instance, if a contractor has three contracts in three different states, they often believe they need three separate GST registrations. However, this is not necessarily the case. A contractor can register in one state where they have a business presence, and they do not require additional registrations in other states to provide works contract services.

Under Section 2(71)(b), if a supply is made from a location other than the registered business place, the supplier must register only if they have a fixed establishment in that state. If no fixed establishment exists, registration in the state where the works contract is performed is not necessary, and the supplier will charge IGST instead.

Registration Requirements

According to Section 22 of the CGST Act, 2017, every supplier of taxable goods or services must register if their turnover exceeds the threshold specified under Section 22(1)

- If their aggregate turnover in a financial year exceeds ₹20 lakh in non-special category states or ₹10 lakh in special category states.

Section 2(71) of the Act defines the “location of the supplier of services” as:

- The registered place of business if the supply originates there.
- The fixed establishment elsewhere if the supply is made from that location.
- The place of business or fixed establishment most directly concerned with the supply in cases involving multiple establishments.
- The supplier’s usual place of residence if none of the above apply.

Place of Supply for Works Contracts

Section 12(3)(a) of the IGST Act, 2017, specifies that the place of supply for services related to immovable property (including works contracts) is the location of the property itself. This means the supplier can charge IGST on services provided under a works contract, regardless of their registration location.

The place of supply of services –

(a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

AAR’s Ruling: No Separate GST Registration Required for Contracts in Another State

In a recent ruling, the Authority for Advance Rulings

(AAR) clarified that a separate Goods and Services Tax (GST) registration is not mandatory for executing a contract in another state, provided the business already holds a valid GST registration. However, if a business intends to set up a fixed establishment at the project site in the other state, a separate GST registration would be required.

The ruling emerged from the case involving M/s T & D Electricals, a contractor and wholesale supplier based in Jaipur, Rajasthan, registered under the GST Act, 2017. The company secured a contract from M/s Shree Cement Limited, Rajasthan, to undertake electrical, instrumentation, and IT work at Shree Cement's Karnataka Cement Project. M/s T & D Electricals intended to execute the contract from its registered business location in Jaipur, with no additional place of business or fixed establishment in Karnataka.

Seeking clarification on whether a separate GST registration was required for executing the contract in Karnataka, the applicant approached the AAR.

Key Ruling: The AAR, represented by members Dr. Ravi Prasad and Mashood Ur Rehman, ruled that M/s T & D Electricals did not require a separate GST registration in Karnataka to carry out the contract. However, if the company intended to establish a fixed site for the project in Karnataka, they would need to register separately under GST for that state.

Furthermore, the ruling elaborated on tax implications under Section 10(1)(b) of the Integrated Goods and Services Tax (IGST) Act, 2017. When goods are supplied to the project site in Karnataka under a "bill-to-ship-to" transaction, the dealer in Rajasthan should charge CGST (Central Goods and Services Tax) and SGST (State Goods and Services Tax). Alternatively, if goods are shipped directly to the Karnataka site, the dealer in Karnataka must charge IGST.

Relevant Provisions: Section 10(1)(b) of the IGST Act specifies that when goods are delivered to a third party on the direction of another, the place of supply will be considered the principal place of business of the person giving the direction. This implies that, in the case of inter-state transactions like the one involving M/s T & D Electricals, GST will be levied based on the supplier's principal place of business, provided there is no separate establishment in the destination state.

Conflicting Rulings and Definitions of Fixed Establishment:

The requirement for separate GST registration depends significantly on whether the contract mandates the creation of a "fixed establishment" at the project site. According to Section 2(50) of the GST Act, a fixed establishment refers to a location (other than the registered principal place of business) that has a sufficient degree of permanence and is equipped with the necessary human and technical resources to supply or receive services.

In a similar case involving **Konkan Railway Corporation Ltd**, the AAR of Odisha ruled that the corporation was required to obtain a separate GST registration in Odisha to provide services to East Coast Railway. The ruling emphasized that Konkan Railway needed to maintain a fixed establishment in Odisha with adequate human and technical resources to carry out the contract. This requirement aligned with the contractual terms, which necessitated an on-site establishment to fulfill the services.

The Konkan Railway ruling illustrates that GST registration requirements may vary depending on the specifics of the contract. For example, some contracts, particularly government contracts, may explicitly require the contractor to establish a fixed presence at the project location. In such cases, obtaining separate GST registration is necessary.

Further Examples of Contradictory Rulings:

- 1. Jaimin Engineering (P) Ltd. Case:** In another case, the AAR in Rajasthan ruled that M/s Jaimin Engineering, a company based in Gujarat, needed to obtain a separate GST registration in Rajasthan to construct cold storages in the state. The ruling emphasized that, as the company planned to establish a fixed office or place of business in Rajasthan, it was obligated to register for GST in that state.
- 2. M/S GEW (India) Pvt. Ltd. Case (2021):** In a case involving M/S GEW (India) Pvt. Ltd., a sub-contractor for M/s L&T, the AAR of Karnataka ruled that the applicant had to register for GST in Karnataka to supply services related to erecting steel structures at a project site. Although the



company did not have or intend to establish a fixed office in Karnataka, the ruling required a separate registration based on the nature of the works contract. The applicant could issue invoices charging IGST from their registered office in Noida, UP, but with the place of supply listed as Karnataka.

Conclusion:

The requirement for a separate GST registration depends heavily on whether the business intends to set up a fixed establishment at the project site, as well as the specific contractual obligations. If no fixed establishment is necessary and the business operates from its principal place of business, as in the case of M/s T & D Electricals, separate registration may not be required. However, in cases where contracts mandate a permanent site or presence, like Konkan Railway and Jaimin Engineering, businesses must register for GST in the project's state. Each case must be carefully evaluated to ensure compliance with GST laws and contractual requirements.

Registration as a Casual Taxable Person:

There are ongoing discussions regarding whether a supplier of works contract services must register as a “casual taxable person” in the state where they are providing such services. This issue was notably addressed in the case of M/s Pragati Engineers v. Union of India & Ors. [2022 (5) TMI 345 - Delhi High Court].

Facts of the Case:

The petitioner, M/s Pragati Engineers, was already registered under the Goods and Services Tax (GST) framework in Delhi. However, GST authorities required the petitioner to obtain an additional registration in the state where the works contract services were being carried out, which in this case was Hyderabad. The petitioner argued that since they were already registered in Delhi, there should be no requirement to obtain a second registration in another state.

Key Issue:

The petitioner contended that their GST registration in Delhi should suffice, even though they were providing

services in Hyderabad. They claimed that requiring them to register in every state where they provide services would create an unnecessary burden.

Court's Ruling:

The Delhi High Court ruled that M/s Pragati Engineers was required to register as a “casual taxable person” in Hyderabad. The court referenced Section 2(20) of the Central Goods and Services Tax (CGST) Act, which defines a casual taxable person as one who supplies goods or services on a temporary basis in a state or union territory where they have no fixed place of business.

The court addressed the petitioner's concern about not having a place of business in Hyderabad by pointing out that the law sufficiently covers this situation under the definition of a casual taxable person. The court clarified that the absence of a fixed place of business in Hyderabad does not exempt the petitioner from the requirement of registration in that state.

Definition of Casual Taxable Person (Section 2(20) of the CGST Act):

A “casual taxable person” is defined as a person who occasionally engages in the supply of goods or services, or both, during the course of business in a state or union territory where they have no fixed place of business. This means that if a business temporarily operates or undertakes contracts in a state where they do not have a permanent establishment, they are required to obtain registration in that state as a casual taxable person.

Implication of the Ruling:

The decision sets a precedent that businesses undertaking works or providing services outside their home state must register as a casual taxable person in the state where the work or service is being conducted if they have no fixed place of business there. This ensures compliance with GST provisions and smooth operations for businesses working across state boundaries.

In summary, the ruling emphasizes the importance of understanding the GST framework and ensuring proper registration across states, even when the business lacks a permanent establishment in those states. This is particularly relevant for businesses involved in works contracts or services that span multiple states.

Practical & Legal Challenges in Obtaining Multiple Registrations for Works Contract (WCT) Supply States

One of the significant practical and legal challenges faced by suppliers of works contract services (WCT) is the requirement to obtain multiple registrations in the states where services are provided. These challenges arise due to the nature of WCT services and the existing legal framework.

1. **Filing of Registration Form REG-01:** When applying for registration, there is often no formal written agreement, such as a rent agreement or consent letter, for the occupancy of worksite offices. This lack of documentation poses difficulties for uploading the necessary documents for the Form REG-01 registration process.
2. **Absence of Fixed Establishment or Place of Business:** In the states where work is being carried out, the supplier of services often does not have a fixed establishment or place of business. As a result, the location does not qualify as the “Location of Supplier of Services” as required for works contract services under the relevant GST provisions.
3. **No Godown or Storage of Goods:** For many WCT services, such as railway contracts, bridge construction, road building, and other infrastructure projects, the materials used are typically stored in open areas, near work sites or railway tracks, without the use of formal godowns or storage facilities. These materials are consumed quickly after delivery, negating the need for warehousing. Consequently, such locations do not meet the definition of a “place of business” as per clause (a) of the relevant provisions.
4. **Compliance with Section 35 and CGST Rules 2017:** Even if a registration is obtained by arranging the necessary documentation for a location in the state where the work is being performed, the books of accounts for the works contract are typically maintained at the principal

place of business, usually the head office. This situation creates a legal conflict, as Section 35 and CGST Rules 2017 require the maintenance of accounts in the state where the registration is held, leading to a potential violation of the law if separate registration is obtained.

5. **Handling Legal Notices and Correspondence:** A significant issue arises with the receipt of legal notices or letters under various GST provisions, particularly Chapters 12 to 15. If registration is obtained in a state purely for compliance purposes, without actual occupation of the premises, the applicant may be unable to acknowledge or respond to notices served at that location, as it is not genuinely occupied by any person.
6. **Casual Taxable Person Registration:** While registering as a casual taxable person can be an option for suppliers who do not have a fixed place of business in the state, it comes with limitations. As per Section 27 of the CGST Act, the validity of such registration is only for 90 days, which can be extended for an additional 90 days. However, for many long-term projects, this temporary registration may not be sufficient.

Conclusion:

According to Section 22, read in conjunction with Section 2(71) of the CGST Act, the location of the supplier of services for works contract services should be the “principal place of business”—typically the location of the head office. Based on this, it should not be necessary for the applicant to obtain separate registrations in the states where works contract services are provided. Instead, the principal place of business should be considered sufficient for registration purposes.

Input Tax Credit (ITC) for Works Contractors

For works contractors, both goods and services are involved in the supply chain, making ITC a crucial component. Section 16(2)(b) of the CGST Act requires that goods or services must be “received” to claim ITC.

However, an explanation added through the CGST



Amendment Act, 2018, clarifies that the contractor is deemed to have received goods or services if they are delivered to the work site, even if the contractor is not registered in that state. This enables contractors to claim ITC for goods and services delivered to work sites outside their registration state, though ITC cannot be claimed for local purchases in states where the contractor is not registered.

Conclusion

Under Sections 22 and 2(71), the location of the supplier for works contract services is typically the principal place of business. Contractors are not required to obtain separate registrations in every state where they provide works contract services unless they have a fixed establishment or the contract mandates it. ITC can still be claimed under these circumstances, provided the goods and services are deemed to have been received.

Unraveling the Tax Benefits: A Deep Dive into 80GGB and 80GGC

CMA Debasmita Jana

Cost Accountant



The Concept of Donating to Political Party is an incentive to encourage transparency in Political Funding and to participate in the Political Process. Simultaneously eligible assessee may claim a tax deduction for such donations u/s 80GGC and 80GGB respectively. However, there are lot of nitty gritty regarding Donations. Let's delve deeper into this deduction:

Key Points of 80GGB and 80GGC

Eligible Assessee: Indian Companies u/s 80GGB(subject to section 182 of companies act 2013) and any person other than Indian companies, local authority and artificial juridical person wholly or partly funded by the government u/s 80GGC.

Deductible amount: Assessee can Contribute in more than one Political Party in a Financial Year and claim 100% of the total amount donated to political parties as a deduction.

Meaning of Contribution u/s 80GGB: The explanation to section 80GGB provides that the word contribution shall have the meaning assigned to it u/s 182 of the companies act, 2013.

[The Companies Act, 2013, restricts political donations by companies to a maximum of 7.5% of the average net profit of the preceding three years. However 80GGB is not applicable for Govt. Companies and Companies are in existence for less than 3 Years]

Meaning of Contribution u/s 80GGC: Unlike section 80GGB, section 80GGC doesn't define the word contribution, therefore the word "Contribution"

has to be understood in its ordinary sense. In other words a contribution is an aid or payment without any consideration [**Graphite India Ltd vs Dalpat rai Mehta[1978] 48 comp. Cas 683(cal.)**].

Graphite India Ltd. vs. Dalpat Rai Mehta: Final Judgment _ Case Summary [Can a company legally donate to a political party?]

Parties: Graphite India Ltd. (Company) vs. Dalpat Rai Mehta (Shareholder)

Court: Calcutta High Court

Year: 1978

Case Number: [1978] 48 Comp. Cas. 683 (Cal.)

Issue: The primary issue in this case was whether a company could legally donate to a political party. The shareholder, Dalpat Rai Mehta, objected to Graphite India Ltd.'s expenditure on advertisements in All India Congress Committee Souvenirs, arguing that it constituted a political contribution, violating Section 293A of the Companies Act, 1956.

Court's Ruling: The Calcutta High Court ruled in favor of the company, holding that a company can indeed make donations to political parties under certain conditions:

Shareholder Approval: The decision to donate must be approved by the shareholders at a general meeting.

Bona Fide Business Purpose: The donation should be made for a genuine business purpose, such as promoting the company's interests or enhancing its public image.



Reasonable Amount: The amount donated should be reasonable and not excessive.

The court emphasized that the primary purpose of the donation should be to benefit the company, not to support a political party. If the donation is primarily for political purposes, it would be considered a violation of Section 293A.

Significance: The Graphite India case established important guidelines for companies seeking to engage in political activities. It clarified that while companies can donate to political parties, they must do so within the bounds of the law and for legitimate business reasons. The case has been cited as a precedent in subsequent cases involving corporate political donations.

In conclusion, the court's final judgment in Graphite India Ltd. vs. Dalpat Rai Mehta allowed companies to make political donations under specific conditions, ensuring that such donations are made for genuine business purposes and with the approval of shareholders. This ruling has had a significant impact on corporate political activities in India.

Overall limit: There's no specific limit on the deduction amount under 80GGC and 80GGB. However, the total deduction cannot be more than total taxable income.

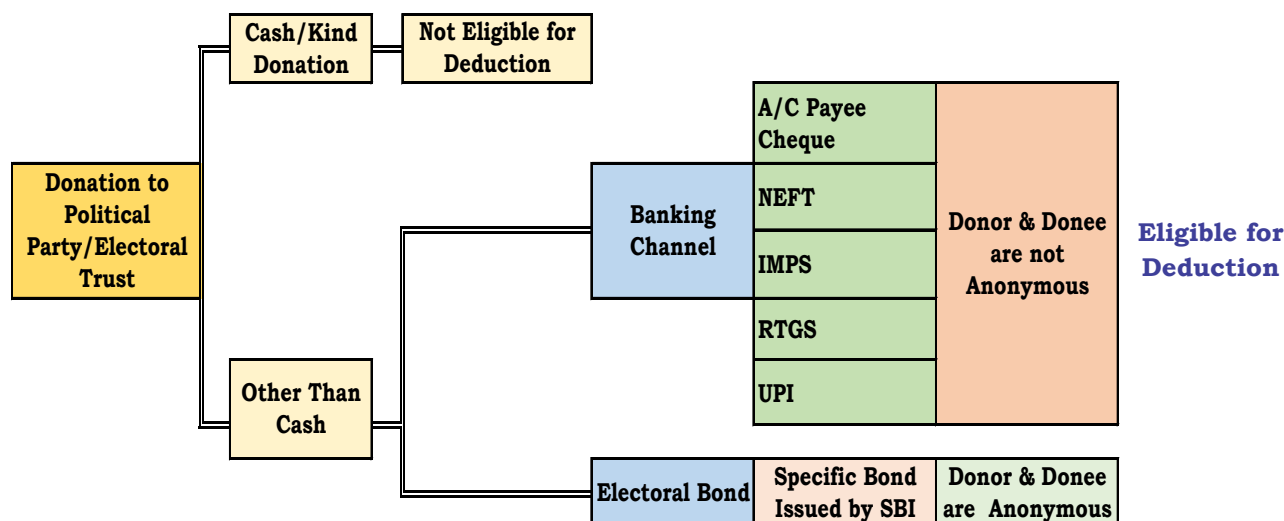
Compliance with Companies Act only for Corporate Assessee/Donor: Section 182 of the Companies Act, 2013, makes various restrictions on political donations made by companies.

Method of donation: Cash donations are not eligible for this deduction. Donations must be made through other modes like cheque, demand draft, online transfer or electoral trust.

Eligible Donee: Donations only qualify for deduction if made to political parties registered under Section 29A of the Representation of the People Act, 1951, or to electoral trusts.

Donation Receipt: To claim the deduction, Assessee must possess a valid receipt for the donation having details like the name and address of Donor and Donee, PAN, TAN, along with the donation amount, mode of payment and the political party/electoral trust registration number.

Method of Donation



Concept of Electoral Bonds

Electoral bonds were introduced in India in 2018 as a way to supposedly clean up political funding. They are essentially bearer instruments, similar to cash, that can be purchased by individuals or entities and donated to eligible political parties. Let's delve into their structure and the tax implications for both donors and political parties.

How Electoral Bonds Work:

Purchase: Bonds are issued on non refundable basis by designated banks [SBI Only] for a few days during specific periods and anyone (Indian citizens and companies) can buy.

Who is eligible to receive electoral bonds: Only registered Political parties who have secured not less than 1 % of the votes polled in the last general election to the house of the people or the legislative assembly, as the case may be, shall be eligible to receive bonds.

Validity of Bonds : The bonds shall be valid for fifteen days from the date of issue and no payment shall be made to an payee political party if the bond is deposited after expiry of the validity period, the amount of bonds not encashed within the validity period of fifteen days shall be deposited by the authorized bank to the PM relief fund.

Encashment: Political parties encash the bonds through their verified bank accounts.

Impact of the Supreme Court Judgement in the case Association For Democratic Reforms vs Election Commission Of India

The recent judgment has significantly altered the taxation landscape for electoral bonds. Previously, Political Parties didn't have to maintain detailed records of donations below ₹. 20,000 received via electoral bonds to claim tax exemption under Section 13A. However, a recent Supreme Court judgement deemed this provision unconstitutional. Now, parties need to

maintain complete records for all bond-based donations to claim tax exemption. If Political Parties cannot provide proper records, they might lose tax exemption on those donations, increasing their tax burden.

Criticisms of Electoral Bonds

Despite the intended benefits of transparency, Electoral Bonds have faced criticism due to:

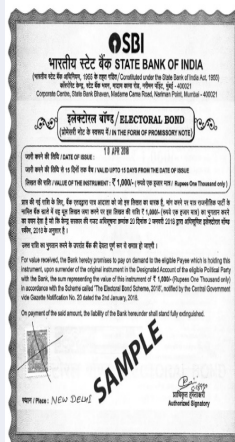
Anonymity: Donor identities remain anonymous, raising concerns about potential influence of undisclosed sources.

Black Money Concerns: The system might not effectively eliminate black money from political funding.

Electoral bonds were introduced with the aim of reforming political funding. While they brought some transparency by using official banking channels, the anonymity clause and the recent judgement on record-keeping raise concerns. The future of electoral bonds and their role in Indian politics remains to be seen.

Example:

Assessee's taxable income is ₹. 10 lakhs and Assessee [Individual] donates ₹. 2 lakhs to a Registered Political Party. Under 80GGC, the entire ₹. 2 lakhs is deductible from taxable income. So, final taxable income becomes ₹. 8 lakhs.



CASE STUDY ANALYSIS:

Link of Judgement - <https://indiankanoon.org/doc/91671469/>

Deputy Commissioner Of Income-Tax vs Smt. Anjali Hardikar (April 6, 2018)
ITA No.173/PUN/2016 [Assessment Year : 2011-12]

This case highlights clarity on the interpretation of "Donations to Political Parties" U/S 80GGC.

Facts: Smt. Anjali Hardikar (the Individual Assessee) claimed a deduction under Section 80GGC for a donation made to a political party's newsletter. The Income Tax Department (represented by the Deputy Commissioner) disallowed the deduction.

Issue: Whether donation to political party's newsletter qualifies for a deduction under Section 80GGC?

Court's Observation:

The Court ruled in favor of the I.T Department since Section 80GGC allows deduction for

donations made to Registered Political Parties under Section 29A of the Representation of the People Act, 1951, or to Electoral Trusts to promote transparency in political funding and encourage participation in the political process through donations directly to the party.

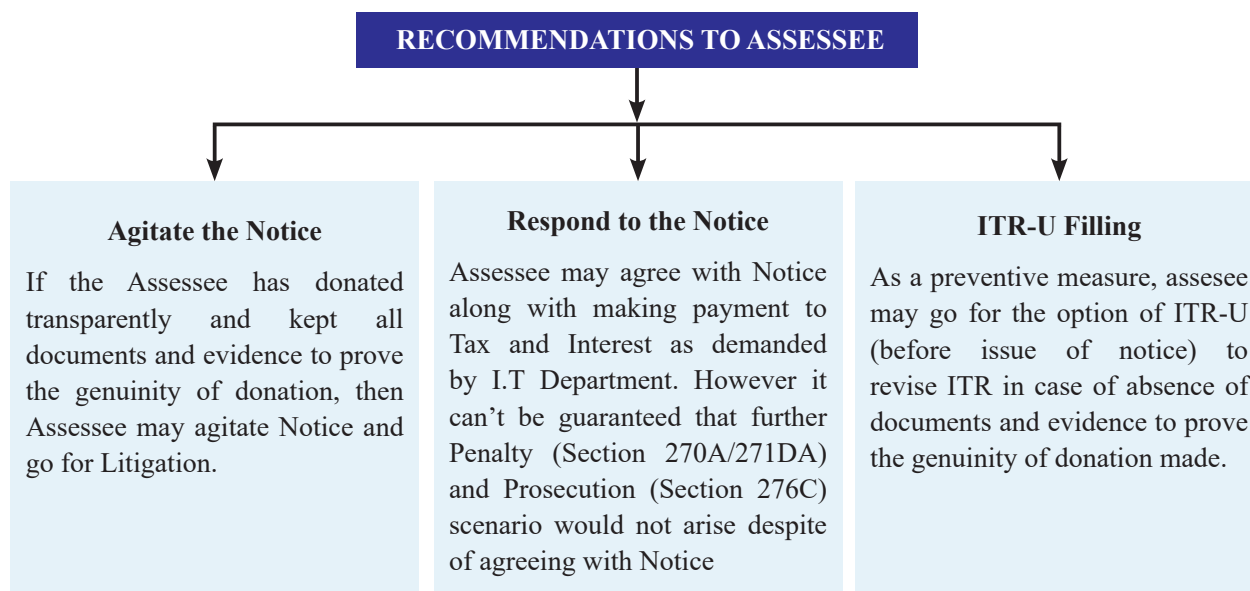
A political party's newsletter is not considered part of the Registered Political Party itself. Donating to the newsletter doesn't directly contribute to the party's functioning.

Analysis:

This case clarifies that to qualify for the deduction under Section 80GGC, donations must be made directly to the Registered Political Party or an Electoral Trust. Expenditures incurred for affiliated entities, like newsletters or party events, are not covered.

Fake Political Donations? Income Tax Department May Come Knocking

The Income Tax Department is issuing notices to address situations where taxpayers claim deductions for fake political donations.



BEWARE OF FAKE POLITICAL DONATIONS: LESSONS FROM THE RUPP [Registered Unrecognized Political Parties] CASE : AHMEDABAD

This practice of fake political donations came to light when the Income Tax Department conducted searches on Registered Unrecognized Political Parties (RUPPs). The RUPP Ahmedabad case, uncovered in September 2022, involved a major racket concerning bogus donations to Registered Unrecognized Political Parties (RUPPs). This case has significant implications for those considering donating to political parties in India.

Registered Unrecognized Political Parties (RUPPs)

Either newly Registered Parties or those which have not secured enough Percentage of Votes in the Assembly or General Elections to become a National /State Party or those which have never contested Elections since being Registered are considered Unrecognized Political Parties.

Key Points:

Fake Donations: The investigation revealed that a group of 23 RUPPs in Ahmedabad were issuing fake donation receipts to individuals and companies. These receipts

were then used by donors to claim tax deductions on their income tax filings.

Income Tax Scrutiny: The Income Tax Department has been issuing notices to individuals and companies who made donations to these RUPPs. This can lead to reassessment of taxes, penalties, and potential legal issues.

Unregistered Political Party: It's crucial to distinguish between Registered and Unregistered Political Parties. Donations to unregistered parties are not eligible for tax deductions, further as per section 182 of the companies act, contribution to unregistered political party is a punishable offence.

Implications for Donors:

Careful Verification: Before donating, thoroughly verify the legitimacy of the political party. Check the Election Commission of India (ECI) website to ensure the party is registered and has a valid registration number as on the date of donation.

Reputable Parties: Consider donating to a national/state political parties.

Documentation: Maintain proper records of all donations, including receipts and party registration details.

CURRENT SITUATION:

ECI Action: Following the RUPP Ahmedabad case, the

ECI has taken stricter measures to identify and remove non-existent RUPPs from its registry.

Tax Department Scrutiny: The Income Tax Department continues to scrutinize donations made to RUPPs.

Additional Considerations:

The RUPP Ahmedabad case highlights the importance of ethical political funding.

Donors should ensure whether party is filing donation reports with ECI and filing ITR's and fielding candidates in elections.

Overall, Section 80GGB and 80GGC incentivize Corporate and Individual participation in the political process by offering significant tax benefits. However, Assessee must be mindful of the potential transparency concerns. Claiming deductions for fake Political Donations is a way to reduce taxable income, ultimately evading taxes. The Income Tax Notice warns of potential reassessment of income, leading to additional tax liabilities and possible penalties. Political Donations are always susceptible Money Laundering to Income Tax Department. Hence the assessee should stay away from Political Donations just for claiming Tax Deduction to avoid the risk of prosecution under relevant sections of the Income Tax Act, which may lead to imprisonment and fines unless and until the Donation is being made transparently.

PRESS RELEASE

DIRECT TAX

CBDT forms internal committee to comprehensively review Income-tax Act and invites suggestions from stakeholders/experts/public on the Income Tax e- filing portal

Posted On: 07 OCT 2024 5:14PM by PIB Delhi

In pursuance of the announcement in the Union Budget 2024-25 by Union Minister for Finance and Corporate Affairs Smt. Nirmala Sitharaman, the Central Board of Direct Taxes (CBDT) has formed an internal committee to oversee a comprehensive review of the Income-tax Act, 1961 (Act). The goal is to make the Act concise, clear, and easy to understand, which will reduce disputes, litigation, and provide greater tax certainty to taxpayers.

The committee invites public inputs and suggestions in four categories:

1. Simplification of Language
2. Litigation Reduction
3. Compliance Reduction, and
4. Redundant/Obsolete Provisions

To facilitate this, a webpage has been launched on the e-filing portal, which can be accessed with the following link:

<https://eportal.incometax.gov.in/iec/foervices/#/pre-login/ita-comprehensive-review>

The above link is live and accessible to the stakeholders/experts/public in the E-filing portal from 06.10.2024. The stakeholders/experts/public can access the page by entering their name and mobile number, followed up by a validation via OTP.

Suggestions by stakeholders/experts/public should

specify the relevant provision of the Income-tax Act, 1961 or Income-tax Rules, 1962 (mentioning the specific section, sub-section, clause, rule, sub-rule, or form number), as the case may be, to which the suggestion relates under the aforementioned four categories.

More than 34.84 lakh audit reports filed on e-filing portal of Income Tax Department upto 7th October, 2024

About 34.09 lakh Tax Audit Reports (TARs) filed for AY 2024-25 with Y-o-Y growth of 4.8%

Posted On: 09 OCT 2024 5:48PM by PIB Delhi

More than 34.84 lakh audit reports, including about 34.09 lakh Tax Audit Reports (TARs), have been filed for AY 2024-25 on the e-filing portal till the end of the due date. There is an increase in the filing of Tax Audit Reports (TARs) for the AY 2024-25 by around 4.8% compared to the filings of TARs on the due date for AY 2023-24.

To assist taxpayers, the department conducted extensive outreach programmes through emails, SMSs, webinars, social media campaigns and messages on the Income Tax portal to create and raise awareness among the tax payers about filing TARs and other audit forms by the due date. Various user awareness videos were uploaded on the Income Tax portal to provide guidance. These concerted efforts have been helpful to taxpayers and tax professionals in timely compliance in filing TARs in Form Nos. 10B, 10BB, 3CA-CD, 3CB-CD and other audit reports in Form Nos. 29B, 29C, 10CCB, etc.

The e-filing Helpdesk team handled around 1.23 lakh queries from taxpayers during September and October 2024, proactively supporting them throughout the filing period. The team assisted taxpayers and tax professionals in resolving complexities and facilitated the smooth submission of audit forms. Helpdesk

CIRCULAR

Circular No. 12 of 2024

F. No. 370142/22/2024 -TPL

Dated: 15th October, 2024

CBDT issues Frequently Asked Questions (FAQs) on Direct Tax Vivad Se Vishwas Scheme, 2024, to provide clarity

Posted On: 15 OCT 2024 7:56PM by PIB Delhi

In order to facilitate the various queries raised by the stakeholders following the enactment of the Direct Tax Vivad Se Vishwas (DTVSV) Scheme, 2024, the Central Board of Direct Taxes (CBDT) has today issued a Guidance Note in the form of Frequently Asked Questions (FAQs). This note is designed to provide clarity and assist taxpayers in better understanding the provisions of the Scheme.

The Guidance Note can be accessed on the Income Tax Department's official portal at <https://incometaxindia.gov.in/news/circular-12-2024.pdf>.

The Direct Tax Vivad Se Vishwas (DTVSV) Scheme, 2024, was announced in the Union Budget 2024-25 by the Union Finance Minister to resolve pending income tax disputes. The scheme was enacted through the Finance (No. 2) Act, 2024. Additionally, the corresponding Rules and Forms for implementing the Scheme were notified on September 20, 2024.

For detailed provisions of the DTVSV Scheme, 2024, sections 88 to 99 of the Finance (No. 2) Act, 2024, may be referred along with the Direct Tax Vivad Se Vishwas Rules, 2024.

Sub.: Guidance Note 1/2024 in provisions of the Direct Tax Vivad Se Vishwas Scheme, 2024 — reg.

The Direct Tax Vivad Se Vishwas Scheme, 2024 (hereinafter referred as DTVSV Scheme, 2024) has been enacted vide Chapter IV of Finance (No.2) Act, 2024 to provide for dispute resolution in respect of pending income tax litigation. The objective of the Scheme is to, inter alia, reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

2. The commencement date of the said Scheme has already been notified as 1.10.2024. Further, Rules and Forms for enabling the Scheme have also been notified on 20.09.2024. After enactment of the DTVSV Scheme, 2024, several queries were received from the stake-holders seeking guidance in respect of various provisions contained therein.
3. Accordingly, under Section 97 of the DTVSV Scheme, 2024 which empowers the Board to issue directions or instructions in public interest, following Guidance Note in the form of answers to the frequently asked questions (FAQs) is hereby issued. This will be helpful for the tax-payers for creating better awareness and understanding with respect to the provisions of the Scheme.

S. No.	Issue	Comments
Eligible cases		
1	Which appeals are covered under Direct Tax Vivad Se Vishwas Scheme, 2024?	Please refer to section 89 of the Direct Tax Vivad Se Vishwas Scheme, 2024 ('the DTVSV Scheme, 2024' or 'the Scheme') [contained in Chapter IV of the Finance (No.2) Act, 2024] Section



S. No.	Issue	Comments
		89 of the Scheme provides for the definition of “appellant” which is (i) a person in whose case an appeal or a writ petition (WP) or special leave petition (SLP) has been filed either by him or by the income-tax authority or by both, before an appellate forum and such appeal or petition is pending as on the specified date i.e. 22.7.2024; or (ii) a person who has filed his objections before The Dispute Resolution Panel (DRP) under section 144C of the Income-tax Act, 1961 (‘the Act’) and the DRP has not issued any direction on or before 22.7.2024; or (iii) a person in whose case the DRP has issued direction under section 144C(5) of the Act and the AO has not completed the assessment under section 144C(13) on or before 22.7.2024; or (iv) a person who has filed an application for revision under section 264 of The Act and such application is pending as on 22.7.2024.
Non-eligible cases		
2	Which cases are not covered under DTVSV Scheme 2024?	As per section 96 of The Scheme, thy Scheme shall not, inter- alia apply in respect of tax arrear,— (i) relating to an assessment year in respect of which an assessment has been made under section 143(3)/144/147/153A/153C of the Act on the basis of search initiated under section 132/132A of the Act; (ii) relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration; (iii) relating to any undisclosed income from a source located outside India or undisclosed asset located outside India; (iv) Relating to an assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Act, if it relates to any tax arrear. There are certain other cases where provisions of COFEPOSA Act, 1974; UAPA Act, 1967; NDPS Act 1985; PBPT Act, 1988; PC Act, 1988; PMLA 2002 etc. may apply. Such cases are also not covered in the Scheme. For further details, refer section 96 of the Scheme,

S. No.	Issue	Comments			
Rate					
3	Kindly provide the amount payable on the tax arrears as per the DTVSV Scheme, 2024?	Table-1			
		S. No.	Nature of Tax arrears	Amount payable where declaration made on or before 31.12.2024	Amount payable Where declaration made on or after 1.1.2025 & before last date
			Tax arrears include disputed tax, interest, penalty (New appellant)	100% of disputed tax	110% of disputed tax
			Tax arrears include disputed tax, interest, penalty (Old appellant)	110% of disputed tax	120% of disputed tax
			Tax arrears related to disputed interest/ penalty/ fee (New appellant)	25% of disputed interest/ penalty/ fee	30% of disputed interest/ penalty/ fee
			Tax arrears related to disputed interest/ penalty/ fee (Old appellant)	30% of disputed interest/ penalty/ fee	35% of disputed interest/ penalty/ fee
		- Where an appeal/write petition/SLP is filed by the income- tax authority on any disputed issue, the amount payable shall be 50% of the amount payable specified in the Table above. - Where an appeal is filed by the appellant before the Commissioner (Appeals)/Joint Commissioner (Appeals) or objections are filed before the Dispute Resolution Panel on any issue on which he has already got a decision in his favour from the ITAT (where the decision on such issue is not reversed by the high Court or the Supreme Court) or the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be 50% of the amount payable specified in the Table above. - Where an appeal is filed by the appellant on any issue before the ITAT on which he has already got a decision in his favour from the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be 50% of the amount payable specified in the Table above.			
Types of Forms and Timelines					
4	What are the various Forms specified in the Scheme?	Four separate Forms have been notified for the purposes of the said Scheme. These are as under.			



S. No.	Issue	Comments
		Form-1: Form for filing declaration and undertaking by the declarant Form-2: Form for Certificate to be issued by Designated Authority
4	What are the various Forms specified in the Scheme?	Form-3: Form for Intimation of payment by the declarant Form-4: Order for Full and Final Settlement of tax arrears by Designated Authority - The Scheme also provides that Form-I shall be filed separately for each dispute, provided that where appellant and the income-tax authority, both have filed an appeal in respect of the same order, single form-1 shall be filed in such a case. - The intimation of payment is to be made in Form-3 and is to be furnished to the Designated Authority along with proof of withdrawal of appeal, objection, application, writ petition, special leave petition, or claim.
5	What are the various timelines specified in the Scheme?	Various timelines specified in the Scheme are as follows: - Declaration and Undertaking shall be filed by tax payer in Form-1 on or before 31.12.2024 to keep the amount payable on the lower threshold. In case of filing the declaration and undertaking beyond 31.12.2024, amount payable will increase as specified in rates Table-1 above. - The Designated Authority shall issue Form-2 within a period of fifteen days from the date of receipt of the declaration to determine the amount payable by the taxpayer. - The tax-payer shall pay the amount as determined in Form-2 within a period of fifteen days from the date of receipt of the certificate, and shall intimate the details of such payment in Form-3. - Upon receipt of Form-3, Designated Authority shall pass an order in Form-4 stating that the tax- payer has paid the full and final amount.
Search assessments		
6	Kindly clarify which assessments shall be considered to have been made on the basis of search initiated under section 132/132 A of the Act?	Assessments framed under Section 153A or 153C are clearly made on the basis of search initiated u/s 132/132a. Therefore, such cases shall not be eligible for the DTVSV Scheme, 2024. For other cases where assessments have been made u/s 143(3)/144/147, following three sets of cases shall be considered as cases where assessments have been made on the basis of search initiated u/s 132/132A.

S. No.	Issue	Comments
		These cases are:— (i) Where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assesses and assessments have been made consequently; or (ii) Where the Assessing Officer has drawn satisfaction, with the prior approval of the Principal Commissioner or Commissioner, that any money, billion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assesses and assessments have been made consequently; or (iii) Where the Assessing (Officer has drawn satisfaction, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assesses and assessments have been made consequently.
Rollback years		
7	A taxpayer is evaluating to close few years in DTVSV Scheme, 2024 out of 4 rollback years. Whether Advance Pricing Agreement can be pursued for remaining years of the 4 rollback years?	As per CBDT Circular 15/2015 dt. 10.6.2015— <i>“The applicant does not have the option to choose the years for which it wants to apply for rollback. The applicant has to either apply for all the four years or not apply at all. However, if the covered international transaction(s) did not exist in a rollback year or there is some disqualification in a rollback year, then the applicant can apply for rollback for less than four years.”</i> Thus, in certain exceptions, the rollback period could be less than 4 years also. On the same analogy, if few years are settled in the Scheme, the rollback can be applied for the remaining years.
Appeal disposed off		
8	Suppose a taxpayer is eligible to for DTVSV Scheme, 2024 as his appeal is pending as on 22.7.2024. But subsequently, before the taxpayer could file declaration under the DTVSV Scheme, 2024, his appeal has been disposed	The DTVSV Scheme 2024 is a Scheme for settlement of tax disputes. Where a decision has been given prior to the taxpayer filing a declaration, there is no dispute pending unless the taxpayer or the Department again prefers an appeal. Therefore, where an appeal is pending as on 22.7.2024 but is not pending as on the date of making declaration under the Scheme, such cases shall not be eligible for the Scheme.



S. No.	Issue	Comments
	off. Can such a taxpayer still file declaration under the Scheme?	However, in cases where a taxpayer files declaration under section 90 of the Scheme and intimates the same to the appellate authority, the concerned appellate authority may consider not disposing the appeal of the taxpayer.
Time limit to file appeal not expired on 22.7.24		
9	Extant provisions of DTVS Scheme, 2024 does not cover cases where Taxpayer would have received orders but the time limit to file an appeal / special leave petition had not expired as on 22 July 2024. Is there any possibility that such cases can be covered in the Scheme?	As per section 89(1) of the Scheme, it is clear that the appeal has to be pending as on the specified date i.e. 22.07.2024 for an appellant to be eligible for the Scheme. The definition of appellant also covers cases where the DRP has issued directions u/s 144C(5) but the AO has not completed the assessment u/s 144C(13). Therefore, the Scheme does not provide for eligibility of those cases where an appeal is not pending as on 22.7.2024 except for DRP cases referred above.
Settling issues in part		
10	Where disputed tax contains qualifying tax arrears along-with non-qualifying tax arrears (such as, tax arrears mentioned in section 96(a) for eg. tax arrear in respect of undisclosed foreign income), whether the taxpayer can apply for the Scheme in such a case?	As per section 9.1 (2) of the Scheme, after filing of declaration, appeals before ITAT/ CTT(A)/JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof alongwith intimation of payment u/s 92(2) of the Scheme. Therefore, the Scheme does not envisage settling issue in part. The dispute has to be settled in full as per the Scheme. Thus, where there are non-qualifying tax arrears, such disputes are not eligible to be covered under the Scheme.
Settling penalty appeal while quantum appeal pending		
11	Can a taxpayer settle penalty appeal while continuing to litigate the associated Quantum appeal?	Reference may be made to section 89(1)(i) of the Scheme, which provides the definition of 'disputed penalty'. It provides that the disputed penalty is such penalty which is not levied or leviable in respect of disputed income or disputed tax. Thus, it would not be possible for the appellant to apply for settlement of penalty appeal only, when the appeal on disputed tax related to such penalty is still pending. If both quantum appeal covering disputed tax and appeal against penalty levied on such disputed tax for an assessment year are pending, the declarant is required to file a declaration form giving details of both disputed tax appeal and penalty appeal. However, he would be required to pay relevant percentage of disputed tax only.
Protective & Substantive additions		
12	If there is substantive addition as well as protective addition in the	Where substantive as well as protective additions have been made whether in the case of same taxpayer for different assessment years

S. No.	Issue	Comments
	case of same assessee for different assessment year, how will that be covered? Similarly, if there is substantive addition in case of one assessee and protective addition on same issue in the case of another assessee, how will that be covered under DTVS Scheme, 2024?	or in the hands of different taxpayers, then either of the two additions i.e. substantive or protective can be settled if the substantive addition is eligible for settlement under the Scheme. On settlement of dispute related to substantive or the protective addition, AO shall pass rectification order deleting the protective to the substantive addition, as the case may be. relating to the same issue in the case or the same taxpayer or in the case or another taxpayer.
Disputes relating to other direct-taxes		
13	Are disputes relating to wealth tax, security transaction tax, commodity transaction tax and equalisation levy covered?	No. Only disputes relating to income-tax are covered.
Request for withdrawal of appeal made		
14	If a taxpayer has requested for withdrawal of appeal under section 91(3) of the Scheme and the appeal is not yet allowed to be withdrawn, how will the taxpayer furnish proof of withdrawal in such cases?	Where assessee has made request for withdrawal and such request is under process, proof of request made shall be enclosed.
Interest waiver applications		
15	With respect to interest under section 234A, 234B or 234C, there is no appeal but the assessee has filed waiver application before the competent authority which is pending as on 22.7.2024? Will such cases be covered under the Scheme?	A taxpayer who has filed a waiver application is not an appellant u/s 89(1)(a) of the Scheme. Therefore, such cases are not covered.
Enhancement notice		
16	If JCIT (Appeals)/ CIT(Appeals) has given an enhancement notice, can the appellant avail the DTVS Scheme, 2024 after including proposed enhanced income in the total assessed income?	Yes. Where an appeal is pending before the JCIT(A)/ CIT(A), the disputed tax is the amount that is payable by appellant if such appeal was to be decided against the appellant. 'I his is as per the definition of 'disputed tax' in s. 89(1)(j) of the DTVS Scheme, 2024, Hence, where JCIT(A)/ CIT(A) has given enhancement notice, the taxpayer can avail the Scheme after including proposed enhanced income in the total assessed income. Appropriate calculation of disputed tax is accordingly provided in the relevant Schedules of form-I .

S. No.	Issue	Comments
Refund issues		
17	Whether taxpayers can settle appeals under DTVS Scheme, 2024 using the refunds which they are expecting from the department?	As per section 92(2) of the Scheme, the declarant shall pay the amount determined under section 92(1) of the Scheme within a period of fifteen days of the date of receipt of the certificate and intimate the details of such payment to the Designated Authority in the prescribed form and thereupon the Designated Authority shall pass an order stating that the declarant has paid the amount. There is no provision in the Scheme allowing payment of the amount determined u/s 92(1) of the Scheme through adjustment of any refund expected from the Department.
18	If taxes are paid after availing the benefits of the DTVS Scheme, 2024 and later the taxpayer decides to take refund of these taxes paid, would it be possible?	No. Any amount paid in pursuance of a declaration made under the Scheme shall not be refundable under any circumstances as per provisions of section 94(1) of the Scheme.
Will delay in deposit TDS/TCS be also covered under the Scheme?		
19	Will delay in deposit TDS/TCS be also covered under the Scheme?	The disputed tax includes tax related to tax deducted at source (TDS) and tax collection at source (TCS) which are disputed and pending in appeal. However, if there is no dispute related to TDS or TCS and there is delay in depositing such TDS/TCS, then the dispute pending in appeal related to interest levied due to such delay will be covered under the Scheme.
20	Where assessee settles TDS appeal (against order u/s 201 of the Act) as deductor of TDS, will credit of such tax be allowed to deductee?	Yes. However, the credit will be allowed as on the date of settlement of dispute by the deductor and hence the interest as applicable to deductee shall apply.
21	When assessor settles his own appeal under DTVS Scheme, 2024, will consequential relief be available to the deductor in default from liability determined under TDS order u/s 201 of the Act?	Yes. In such a case, the deductor in default would not be required to pay the corresponding TDS amount. However, he would be required to pay the interest under sub-section (1A) of section 201 of the Act. If such levy of interest under sub-section (1A) of section 201 of the Act qualifies for DTVS Scheme, 2024, the deductor in default can settle this disputed interest by filing up the relevant schedule of disputed interest.
Consequential relief u/s 40(a)(i)/(ia)		
22	Where assessee settles TDS liability as deductor of TDS under DTVS Scheme, 2024 (i.e. against order u/s 201), when will he get consequential relief of	In such cases, the deductor shall be entitled to get consequential relief of allowable expenditure under proviso to section 40(a)(i)/(ia) of the Act in the year in which the tax was required to be deducted, if the disallowance under section 40(a)(i)/(ia) of the Act is with respect to same issue on which order under section 201 has been Issued.

S. No.	Issue	Comments
	expenditure allowance under proviso to section 40(a)(i)/(ia) of the Act?	However, if the assessed has already claimed deduction of the same amount under section 40(a)(i)/(ia) of the Act in subsequent year on account of recovery of TDS in such subsequent year, he shall not be entitled to consequential relief under section 40(a)(i)/(ia) of the Act on the basis of the settlement under DTVSV Scheme, 2024. In case, in the order under section 143(3) there are other issues as well, and the appellant wants to settle the dispute with respect to order under Section 143(3) of the Act as well, then the disallowance under section 40(a)(i)/(ia) of the Act relating to the issue on which he has already settled liability under section 201 of the Act would be ignored for calculating disputed tax.
Registration u/s 12AA		
23	A trust has been denied registration u/s 12AA of the Act. Whether appeal against such order is eligible for DTVSV Scheme, 2024?	No
Set-aside matters		
24	An order has been set aside, fully or partially, to the AO. Can the taxpayer avail the DTVSV Scheme, 2024 if the set-aside matter is pending as on 22.7.2024?	According to the Scheme, an appeal which is pending as on 22.7.2024 shall be eligible for settlement. A set-aside matter to the AO is not an appeal pending as such. Therefore, set-aside matters to the AO, whether fully set-aside or partially set-aside are not covered under the Scheme.
Two appeals for one AY in respect of the same order		
25	Where there are two appeals filed for an assessment year in respect of the same order - one by the appellant and one by the tax department, whether the appellant can opt for only one appeal? How would the disputed tax be computed in such a case?	Yes. The appellant has an option to opt for settling appeal filed by him or appeal filed by the department or both. This has to be specified in the declaration to be made in Form-1. Also refer to the proviso to Rule 4 of the Direct Tax Vivad se Vishwas Rules, 2024 which is reproduced as under- <i>“where the appellant and the income-tax authority have both filed an appeal or writ petition or special leave petition in respect of the same order, single Form-1 shall be filed by the appellant.”</i> Accordingly, relevant Schedules in Form-1 have to be filled out by the appellant and the disputed tax would be worked out.
Writ on 148/148A notice		
26	If a writ has been filed against a notice issued under section 148/148A of the Act and no assessment order has been passed consequent to that notice, whether such cases are eligible under the Scheme?	The income in such cases is yet to be determined. Therefore, the disputed tax is not ascertainable. Thus, the taxpayer would not be eligible for the Scheme in such cases.



S. No.	Issue	Comments
Appeal before HC/SC yet to be admitted		
27	If appeal is filed before High Court or Supreme Court and is pending for admission as on 22.7.2024, whether the case is eligible for DTVSV Scheme, 2024?	Yes
Cross objections & MA		
28	Whether cross objections filed and pending as on 22.7.2024 will also be covered by the Scheme?	Yes
29	Whether Miscellaneous Application (MA) pending as on 22.7.2024 will also be covered by the Scheme?	No. MA is not an appeal. Therefore, there is no pending appeal as on 22.7.2024.
Assessment order stayed by HC/SC		
30	Whether the DTVSV Scheme, 2024 can be availed in a case where the enforceability of an assessment order passed by AO has been stayed by the High Court or Supreme Court’?	No. A quantum appeal pending on 22.7.2024 can be settled under the Scheme. Where an assessment order has been stayed, it does not tantamount to an appeal pending as on 22.7.2024.
Other issues		
31	The assessment order under section 143(3) of the Act was passed in the case of an assessee for an assessment year. The said assessment order is pending with ITAT. Subsequently another order under Section 147/143(3) was passed for the same assessment year and that is pending with CIT (Appeals)’? Could both or one of the orders be settled under DTVSV Scheme, 2024?	The appellant in this case has an option to settle either of the two appeals or both appeals for the same assessment year. As per rule 4(1) of the Direct Tax Vivad se Vishwas Rules, 2024, the declaration shall be filed separately in respect of each order. Therefore, if a taxpayer decides to settle both appeals then he has to file separate declaration for the two orders.
32	There is no provision for 50% concession in appeal pending in HC on an issue where the assessee has got relief on that issue from the Supreme Court?	If the appellant has got decision in his favour from Supreme Court on an issue, there is no dispute now with regard to that issue and he need not settle that issue. If that issue is part of the multiple issues, the disputed tax may be calculated on other issues considering nil tax on this issue.

S. No.	Issue	Comments
33	Addition was made u/s 143(3) on two issues whereas appeal is filed only for one addition, Whether interest and penalty be waived for both additions.	Under DTVSV Scheme, 2024 interest and penalty will be waived only in respect of the issue which is disputed in appeal and for which declaration is filed. Hence, for the undisputed issue, the tax, interest and penalty shall be payable.
34	Once declaration is filed under DTVSV Scheme, 2024, and for financial difficulties, payment is not made accordingly, will the declaration be null and void”	Yes. As per provisions of section 91(5) of the Scheme, it shall be deemed as if the declaration has not been made.
35	Whether the immunity from prosecution is only for the declarant or also for the Director of the company or partner of the firm with respect to the disputes settled under DTVSV Scheme, 2024?	If a dispute has been settled under the Scheme, the immunity from prosecution with respect to that dispute shall also extend to the director / partner of company/firm (being the declarant) in respect of same dispute under section 278B or the Act.



NOTIFICATIONS

INDIRECT TAX

GST (CENTRAL TAX)

Notification No. 19/2024 – Central Tax

Dated the 30th September, 2024

S.O.(E).– In exercise of the powers conferred by proviso to sub-section (2) of section 171 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Goods and Services Tax Council, hereby appoints the 1st day of April, 2025 as the date from which the Authority referred to in the said section shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by that registered person.

2. This notification shall come into force on the date of its publication in the Official Gazette.

Notification No. 18/2024 – Central Tax

Dated the 30th September, 2024

S.O.....(E).– In exercise of the powers conferred by sub-section (2) of section 171 read with sub-section (1) and second proviso to sub-section (5) of section 109 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the Principal Bench of the Appellate Tribunal, constituted under sub-section (3) of section 109 of the said Act, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by that registered person.

2. This notification shall come into force with effect from the 1st day of October, 2024.

Notification No. 20/2024 – Central Tax

Dated the 8th October, 2024

G.S.R... (E). –In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: —

1. (1) These rules may be called the Central Goods and Services Tax (Second Amendment) Rules, 2024.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1010185/ENG/Notifications>.

Notification No. 21/2024–Central Tax

New Delhi, the 8th October, 2024

S.O.....(E).–In exercise of the powers conferred by sub-section (1) of section 128A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (the said Act), the Central Government, on the recommendations of the Council, hereby notifies the respective date specified in Column (3) of the Table below, as the date upto which payment for the tax payable as per the notice, or statement, or the order referred to in clause (a) or clause (b) or clause (c) of the said section, as the case may be, can be made by the class of registered person specified in the corresponding entry in column (2) of the said Table, namely:–

Table

Sl. No.	Class of registered person	Date upto which payment for the tax payable as per the notice or statement or the order referred to in clause (a) or clause (b) or clause (c) of section 128A of the said Act, as the case may be, can be made for waiver of interest, or penalty, or both, under the said section.
(1)	(2)	(3)
1	Registered persons to whom a notice or statement or order, referred to in clause (a) or clause (b) or clause (c) of section 128A of the said Act, has been issued.	31.03.2025
2	Registered persons to whom a notice has been issued under sub-section (1) of section 74, in respect of the period referred to in sub-section (1) of section 128A of the said Act, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority, or Appellate Tribunal, or a court, in accordance with the provisions of sub-section (2) of section 75, for determination of the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73 of the said Act.	Date ending on completion of six months from the date of issuance of the order by the proper officer redetermining tax under section 73 of the said Act.

2. This notification shall come into effect from the 1st day of November, 2024.

[No. CBIC-20006/20/2023-GST]

Notification No. 22/2024– Central Tax

New Delhi, dated the 8th October, 2024.

S.O.....(E) — In exercise of the powers conferred under the section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the following special procedure for rectification of order, to be followed by the class of registered persons (hereinafter referred to as the said person), against whom any order under section 73 or section 74 or section 107 or section 108 of the said 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 said 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 said Act, and where appeal against the said order has not been filed, namely:—

- The said person shall file, electronically on the common portal, within a period of six months from the date of issuance of this notification, an application for rectification of an order issued under section 73 or section 74 or section 107 or section 108 of the said Act, as the case may be, confirming demand for wrong availment of input tax credit, on account of contravention of provisions of sub-section (4) of section 16 of the said 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 said Act, and where appeal against the said order has not been filed.
- The said person shall, along with the said application, upload the information in the proforma in **Annexure A** of this notification.
- The proper officer for carrying out rectification of the said order shall be the authority who had



issued such order, and the said authority shall take a decision on the said application and issue the rectified order, as far as possible, within a period of three months from the date of the said application.

5. Where any rectification is required to be made in the order referred to in paragraph 1 and, the said authority has issued a rectified order thereof, then the said authority shall upload a summary of the rectified order electronically –
 - (i) in FORM GST DRC-08, in cases where rectification of an order issued under section 73 or section 74 of the said Act is made; and
 - (ii) in FORM GST APL-04, in cases where rectification of an order issued under section 107 or section 108 of the said Act is made.
6. The rectification is required to be made only in respect of demand of such input tax credit which has been alleged to be wrongly availed in contravention of provisions of sub-section (4) of section 16 of the said Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of the said section 16.
7. Where such rectification adversely affects the said person, the principles of natural justice shall be followed by the authority carrying out such rectification.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1010187/ENG/Notifications>

Notification No. 23/2024–Central Tax

New Delhi, dated the 8th October, 2024.

S.O..... (E). In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes and Customs published in the Gazette

of India, Extraordinary, Part II, section 3, sub-section (i) vide number G.S.R. 366(E), dated the 1 June, 2021 (No.22/2021-Central Tax), except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, shall stand waived which is in excess of an amount of one thousand rupees:

Provided further that the total amount of late fee payable under section 47 of the said Act by the registered person, who fails to furnish the return in FORM GSTR-7 for a month by the due date, where the total amount of central tax deducted at source in the said month is nil, shall stand waived.

2. This notification shall come into force on the 1st day of November, 2024.

[No.CBIC-20006/20/2023-GST]

Notification No. 24/2024–Central Tax

New Delhi, the 9th October, 2024.

G.S.R....(E). In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 5/2017- Central Tax, published in the Gazette of India, Extraordinary, Part II, section 3, sub- section (i) vide number G.S.R. 607(E), dated the 19th June, 2017, namely:-

In the said notification, after the opening paragraph, the

following proviso shall be inserted, namely :- “Provided that nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).”

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

[F No. CBIC-190354/149/2024-TO(TRU-II)]

Notification No. 25/2024-Central Tax

New Delhi, the 9th October, 2024

G.S.R (E) — In exercise of the powers conferred by sub-section (3) of section 1 read with section 51 of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereafter in this notification referred to as the said Act, the Central Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 50/2018- Central Tax, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i)

vide number G.S.R 868 (E), dated 13th September, 2018, namely:—

In the said notification,

(i) after clause (c) and before the first proviso, the following clause shall be inserted,-

“(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered person”;

(ii) for the third proviso, the following proviso shall be substituted, namely-

“Provided also that nothing in this notification shall apply to the supply of goods or services or both, which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of this notification.”

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

[F No. CBIC-190354/149/2024-TO(TRU-II)]

GST (CENTRAL TAX - RATE)

Notification No. 05/2024-Central Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) after Schedule I – 2.5% , in List 1, after item number 232 and the entries relating thereto, the

following item numbers and entries shall be inserted, namely: -

“(233) Trastuzumab Deruxtecan

(234) Osimertinib

(235) Durvalumab”;

(b) in Schedule II – 6%, after S. No. 32B and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“32C	1905 90 30	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)”;
------	---------------	--

(c) in Schedule III – 9%, -

(i) against S. No. 16, in column (3), for the words “un-fried or un-cooked snack pellets,



by whatever name called, manufactured through process of extrusion”, the words “un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, extruded or expanded products, savoury or salted” shall be substituted;

- (ii) for S. No. 435A and the entries relating thereto, the following S. No. and entries shall be substituted, namely: -

“435A	9401 [other than 9401 10 00 or 9401 20 00]	Seats (other than those of heading 9402), whether or not convertible into beds and parts thereof other than seats of a kind used in aircraft or seats of a kind used for motor vehicles”;
-------	--	---

- (d) in Schedule IV – 14%, after S. No. 210 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“210A	9401 20 00	Seats of a kind used for motor vehicles”.
-------	------------	---

(1)	(2)	(3)	(4)	(5)
“8.	72, 73, 74, 75, 76, 77, 78, 79, 80 or 81	Metal scrap	Any unregistered person	Any registered person”.

2. This notification shall come into force on the 10th day of October, 2024.

Notification No. 07/2024-Central Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R (E).- In exercise of the powers conferred by sub-section (1), sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes

2. This notification shall come into force on the 10th day of October, 2024.

[F. No. CBIC-190354/149/2024-TO(TRU-II)]

Notification No. 06/2024-Central Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 4/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 676(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, after S. No. 7 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

[F. No. CBIC-190354/149/2024-TO(TRU-II)]

the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), number 11/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), vide number G.S.R. 690(E), dated the 28th June, 2017, namely:-

1. In the said notification, in the Table, against serial number 8,
- (i) after item (iva) and the entries relating thereto in columns (3), (4) and (5), the following item and entries relating thereto in columns (3), (4) and (5) shall be inserted, namely: -

(3)	(4)	(5)
“(ivb) Transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken. [Please refer to clause (iv) of paragraph 4 relating to Explanation].”

(iii) in column (3), in item (vii), after the brackets and figures “(iva),”, the brackets and figures “(ivb),” shall be inserted.

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

[F.No. 190354/149/2024-TO(TRU-II) – Part-I CBEC]

Notification No. 08/2024- Central Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R. (E).— In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the

following amendment further to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), number 12/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 691(E), dated the 28th June, 2017, namely:—

1. (i) In the said notification, in the Table, -
 - (A) after serial number 25 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“25A	Heading 9969 or Heading 9986	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.	Nil	Nil”

(B) after serial number 44 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“44A	Heading 9981	Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or (b) 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.	Nil	Provided that the 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 is so notified at the time of supply of the research and development service.”

- (C) after serial number 66 and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3), (4) and (5) shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“66A	Heading 9992	Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.	Nil	Nil”

- (D) for serial number 69 and the entries relating thereto in columns (2), (3), (4) and (5), the following shall be substituted, namely: -

(1)	(2)	(3)	(4)	(5)
“69	Heading 9983 or Heading 9991 or Heading 9992	Any services provided by – (a) the National Skill Development Corporation set up by the Government of India; (b) the National Council for Vocational Education and Training; (c) an Awarding Body recognized by the National Council for Vocational Education and Training; (d) an Assessment Agency recognized by the National Council for Vocational Education and Training; (e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training, in relation to - (i) the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.	Nil	Nil”

- (E) against serial number 71, in column (3), for the words “National Council for Vocational Training”, the words “National Council for Vocational Education and Training” shall be substituted.

- (ii) in paragraph 2 of the said notification,

- (A) in item (h), -

- (a) in sub-item (i), for the words “National Council for Vocational Training”, the words “National

Council for Vocational Education and Training” shall be substituted.

- (b) in sub-item (ii), for the words “National Council for Vocational Training”, the words “National Council for Vocational Education and Training” shall be substituted.

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

[F.No. 190354/149/2024-TO(TRU-II) – Part-I CBEC]

Notification No. 09/2024- Central Tax (Rate)

New Delhi, the 8th October, 2024

GSR (E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in

the notification of the Government of India, in the Ministry of Finance (Department of Revenue), number 13/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i), vide number G.S.R. 692(E), dated the 28th June, 2017, namely: -

1. In the said notification, in the Table, after serial number 5AA and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3) and (4) shall be inserted, namely: -

(1)	(2)	(3)	(4)
“5AB	Service by way of renting of any property other than residential dwelling.	Any unregistered person	Any registered person.”

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

[F.No. 190354/149/2024-TO(TRU-II) – Part-I CBEC]

GST (INTEGRATED TAX - RATE)

Notification No. 05/2024- Integrated Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R (E).- In exercise of the powers conferred by sub-section (1) of section 5 and Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 1/2017-Integrated Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E), dated the 28th June, 2017, namely:-

In the said notification, -

- (a) after Schedule I – 5% , in List 1, after item number 232 and the entries relating thereto, the

following item numbers and entries shall be inserted, namely: -

- “(233) Trastuzumab Deruxtecan
(234) Osimertinib
(235) Durvalumab”;

- (b) in Schedule II – 12%, after S. No. 32B and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“32C	1905 90 30	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)”;
------	---------------	--

- (c) in Schedule III – 18%, -

- (i) against S. No. 16, in column (3), for the



words “un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion”, the words “ un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, extruded or expanded products, savoury or salted” shall be substituted;

- (ii) for S. No. 435A and the entries relating thereto, the following S. No. and entries shall be substituted, namely: -

“435A	9401 [other than 9401 10 00 or 9401 20 00]	Seats (other than those of heading 9402), whether or not convertible into beds and parts thereof other than seats of a kind used in aircraft or seats of a kind used for motor vehicles”;
-------	--	---

- (d) in Schedule IV – 28%, after S. No. 210 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“210A	9401 20 00	Seats of a kind used for motor vehicles”.
-------	------------	---

2. This notification shall come into force on the 10th day of October, 2024.

[F. No. CBIC-190354/149/2024-TO(TRU-II)]

Notification No. 06/2024-Integrated Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R....(E).- In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 4/2017-Integrated Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide

number G.S.R. 669(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, after S. No. 7 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“8.	72, 73, 74, 75, 76, 77, 78, 79, 80 or 81	Metal scrap	Any unregistered person	Any registered person”.

2. This notification shall come into force on the 10th day of October, 2024.

[F. No. CBIC-190354/149/2024-TO(TRU-II)]

Notification No. 07/2024-Integrated Tax (Rate)

New Delhi, the 8th October, 2024

G.S.R.....(E).-In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 5, subsection (1) of section 6 and clauses (iii), (iv) and (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 8/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 683(E), dated the 28th June, 2017, namely:-

- In the said notification, in the Table, against serial number 8,
 - after item (iva) and the entries relating thereto in columns (3), (4) and (5), the

following item and entries relating thereto in columns (3), (4) and (5) shall be inserted, namely: -

(3)	(4)	(5)
“(ivb) Transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis.	5	Provided that credit of input tax charged on goods used in supplying the service has not been taken. [Please refer to clause (iv) of paragraph 5 relating to Explanation].”

- (ii) in column (3), in item (vii), after the brackets and figures “(iva),”, the brackets and figures “(ivb),” shall be inserted.

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

[F.No. 190354/149/2024-TO(TRU-II) – Part-I CBEC]

Notification No. 09/2024-Integrated Tax (Rate)

New Delhi, the 8th October, 2024

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.10/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 685(E), dated the 28th June, 2017, namely:-

1. In the said notification, in the Table, after serial number 6AA and the entries relating thereto, the following serial number and entries relating thereto in columns (2), (3) and (4) shall be inserted, namely: -

(1)	(2)	(3)	(4)
“6AB	Service by way of renting of any property other than residential dwelling.	Any unregistered person	Any registered person.”

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

[F.No. 190354/149/2024-TO(TRU-II) – Part-I CBEC]



CIRCULARS

INDIRECT TAX

GST

Circular No. 234/28/2024-GST

F. No. CBIC-190354/149/2024-TO(TRU-II)-CBEC

Dated the 11th October 2024

Subject: Clarifications regarding applicability of GST on certain services – reg.

Based on the recommendations of the GST Council in its 54th meeting held on 9th September 2024, at New Delhi, in exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017, clarifications on the following issues are being issued through this Circular as under:

2. Applicability of GST on the service of affiliation provided by universities to colleges:
 - 2.1 Representations have been received seeking clarification on the applicability of GST on the service of affiliation provided by universities to colleges.
 - 2.2 The activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions. The affiliation services provided by the universities to colleges are not by way of services related to the admission of students to such colleges or the conduct of examinations by such colleges.
 - 2.3 Thus, as recommended by the 54th GST Council, it is hereby clarified 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.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003239/ENG/Circulars>

Circular No. 235/29/2024-GST

F. No. CBIC-190354/149/2024-TO(TRU-II)-CBEC

Dated the 11th October 2024

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi -reg.

Based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi, in exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017, the Board hereby clarifies the following issues through this circular for the purpose of uniformity in their implementation:

1. **Clarification regarding GST rate on Extruded/Expanded Savoury food products:**
 - 1.1 Representations were received seeking clarification regarding appropriate classification and whether savoury or salted extruded snack pellets are classifiable under HS 2106 as Namkeens due to disputes in the field. Based on the recommendations of GST Council, with effect from 10.10.2024, 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 attract GST at the rate of 12% vide entry 32C of Schedule II of notification 1/2017-Central Tax (Rate) dated the 28th June, 2017 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 of entry 46 of Schedule II of Notification 1/2017-Central Tax(Rate) dated the 28th June, 2017. The GST rate of 5% continue on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003240/ENG/Circulars>

Circular No. 236/30/2024-GST

F. No. CBIC-190354/149/2024-TO(TRU-II)-CBEC

Dated the 11th October 2024

Subject : Clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings

Instances were brought to the notice of the Board pertaining to the prevailing doubts among the field formations/trade as regards the scope of regularization on “as is” or “as is, where is basis” vide various GST Circulars issued for clarification regarding applicable GST rates and appropriate classification of specified goods or service or both on the basis of recommendation of the GST Council in its various meetings.

2. The GST Council in its 54th Meeting held on 9th September 2024 has recommended issuance of clarification to clarify the intent behind the regularization done in the past meetings. Therefore, this Circular is being issued in exercise of power under Section 168 of CGST Act 2017 to clarify **scope of “as is” or “ as is, where is basis”**.

The details may be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003241/ENG/Circulars>

Circular No. 237/31/2024-GST

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

New Delhi, dated the 15th October, 2024

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

Reference is invited to sub-section (5) and sub-section (6) of section 16 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) inserted in section 16 of the CGST Act, with effect from the 1st day of July, 2017, vide section 118 of the Finance (No. 2) Act, 2024, whereby the time limit to avail input tax credit under provisions of sub-section (4) of section 16 of CGST Act has been retrospectively extended in certain specified cases.

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

Circular No. 238/32/2024-GST

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

New Delhi, dated the 15th October, 2024

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

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

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



DIRECT TAX

Circular No. 11/2024

F. No. 312/63/2023-OT

Dated 1st October 2024

Sub: Order authorizing Income-tax authorities to admit an application or claim for refund and carry forward of loss and set off thereof under section 119(2)(b) of the Income-tax Act, 1961 reg-

In supersession of all earlier instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (the Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set off thereof under section 119(2)(b) of the Income-tax Act, 1961 (the Act), the present Circular is being issued to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set off thereof containing comprehensive guidelines on the conditions for condonation and the procedures to be followed for deciding such matters.

- 2.(i) The Principal Commissioners of Income-tax/Commissioners of Income-tax (Pr. CsIT/CsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims is not more than ₹ 1 crore for any one assessment year.
 - (ii) The Chief Commissioners of Income-tax (CCsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds ₹ 1 crore but is not more than ₹ 3 crores for any one assessment year.
 - (iii) The Principal Chief Commissioners of Income-tax (Pr. CCsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds ₹ 3 crores for any one assessment year.
- 2.1 Further, it is also provided that the Commissioner of Income-tax, Central Processing Centre (CPC),

Bengaluru shall be vested with the powers for acceptance/rejection of petitions under section 119(2)(b) of the Act seeking condonation of delay in verifying the return of income by sending the ITR-V to centralized processing Cell (CPC), Bengaluru within the prescribed time limit.

3. No condonation application for claim of refund/loss shall be entertained, beyond five years from the end of the assessment year for which such application/claim is made. The time limit for filing of such application within five years from the end of assessment year will be applicable for applications filed on or after 01.10.2024. This limit of five years shall be applicable to all authorities having powers to condone the delay as per the above prescribed monetary limits. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which the application is received by the competent authority.
4. In view of the amendment in Section 139(9A) of the Act vide Finance Act, 2024, the powers of acceptance/rejection of the application within the monetary limits delegated to the authorities in case of such claims will be subject to following conditions:
 - i. At the time of considering the case under Section 119(2)(b) of the Act, it shall be ensured that assessee was prevented by reasonable cause from filing the return of income within the due date and that the case is of genuine hardship on merits.
 - ii. The authorities dealing with the case shall be empowered to direct the jurisdictional Assessing Officer to make necessary inquiries in accordance with the provisions of the Act to ensure that the application is dealt on merits in accordance with law.
5. In a case where refund claim has arisen consequent to a Court order, the period for which any such proceedings were pending before any Court of Law shall be ignored while calculating the said period of five years, provided such

condonation application is filed within six months from the end of the month in which the Court order was issued or the end of financial year whichever is later.

6. A belated application for supplementary claim of refund (claim of additional amount of refund after completion of assessment for the same year) can be admitted for condonation provided other conditions as referred above are fulfilled. The powers of acceptance/rejection within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsIT/CsIT in case of returns claiming refund and supplementary claim of refund would be subject to the following further conditions;
 - i. The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.
 - ii. No interest will be admissible on belated claim of refunds.
 - iii. The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self assessment tax as per the provisions of the Act.
7. The delegation of powers, as per para 2 of this Circular shall also cover all such applications/claims for condonation of delay under section 119(2)(b) of the Act which are pending as on the date of issue of the Circular i.e. 01.10.2024.
8. The Board reserves the power to examine any grievance arising out of an order passed or not passed by the authorities mentioned in para 2 above and issue suitable direction to them for proper implementation of this Circular.

JUDGEMENT

INDIRECT TAX

Matter to be remanded to stage of SCN as demand was dropped in prior year on same issue: HC

Facts of the case - Flemingo Dutyfree Shop (P.) Ltd. v. Deputy Commissioner of Revenue, Salt Lake Charge - [2024] (Calcutta)

The appellant was aggrieved by the order passed under Section 73 and filed writ petition against the same. The learned Single Bench directed the appellant to file appeal before Appellate Authority under Section 107 of CGST Act, 2017. The appellant filed appeal against the order of Single Bench and contended that it should be given one more opportunity since the consultant could not take appropriate steps due to certain intervening circumstances and ex-parte order was passed.

Decision of the case :

- The Honorable High Court noted that the appellant didn't file any reply to the show cause notice and none appeared on behalf of the appellant on the date fixed for personal hearing. The Court also noted that the department had dropped demand in respect of earlier assessment year i.e. 2017-2018.
- Therefore, the Court held that the matter was to be restored to stage of show cause notice with liberty to appellant to file reply within 15 days. The Court also directed the Adjudicating Authority to fix date for personal hearing and the appellant shall appear before the Authority either in person or through authorised representative.

ITC refund cannot be denied if export service payment is received in another branch's bank account: HC

Facts of the case - Cable And Wireless Global India Private Limited v. Assistant Commissioner, Cgst - [2024] (Delhi)

The petitioner is engaged in providing Business

Support Services to Vodafone Group Services Limited (VGSL). It filed an application for a refund of the unutilized ITC. The department rejected the refund application on the ground that payment for services was routed to the Bangalore branch's bank account instead of the Delhi branch. It led the department to conclude that the "supplier" of services (Delhi branch) had not received the payments, thus invalidating refund under Section 2(6) of IGST Act, 2017, which defines "export of services".

It filed writ petition against the rejection order and contended that the denial of refund was unjustified as the department had no power to deny refund on the ground that payment was made in different bank account.

Decision of the case :

- The Honorable High Court noted that the Section 2(6)(iv) of IGST Act does not specify particular bank account where payment must be received but rather that it should be received by the supplier. Merely because payment of service provided by petitioner was received in a bank account at Bangalore, the same would neither warrant location of supplier identified in accordance with Section 2(15) being altered nor impact determination of actual supplier of service. The Court further noted that the department's objections based on bank account remittance were overly technical and unsustainable. Therefore, the Court held that the impugned order rejecting refund was to be quashed.

HC allowed assessee to file rectification where ITC was disallowed for being claimed under wrong head

Facts of the case - Tvl.Thendral Electricals v. Commissioner of Commercial Taxes - [2024] (Madras)

The petitioner was eligible to Input Tax Credit (ITC) but inadvertently, the petitioner while filing the monthly return had entered the ITC in column 4(A)(1)(3) and

4(A)(1)(4) by bifurcating the same under the head “Central Tax” and “State Tax” instead of Integrated Tax. The department issued order under Section 73 denying ITC claim on the ground that in view of the above error, the petitioner was not entitled to claim credit of the taxes paid under the IGST Act.

It filed writ petition against the order and contended that it was only a clerical error which was apparent on the face of the record.

Decision of the case :

The Honorable High Court noted that this is only a clerical error which is apparent on the face of the record and thus denial of Input Tax Credit is unjustified. Moreover, the petitioner was eligible to file rectification petition under Section 161 of the CGST Act, 2017. Therefore, the Court directed the petitioner to file rectification petition within two weeks and the tax authorities were directed to consider rectification petition and pass orders after giving opportunity of hearing.

HC can only condone delay in exceptional cases even if statute prohibits such condonation: J&K HC

Facts of the case - *Jatinder Singh v. Union Territory of Jammu & Kashmir* - [2024] (Jammu & Kashmir and Ladakh)

The appeal of the petitioners was rejected by the Appellate Authority (‘AA’) due to delays in filing. The petitioners contended that the Limitation Act should apply, and condonation should be allowed beyond the statutory period.

They also argued that even if the AA does not have the power to condone delays beyond the 30-day period prescribed under Section 107(4) of the CGST Act, 2017, this Court, in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, can direct such condonation of delay.

Decision of the case :

- The Court noted that while the High Court has the power under Article 226 to condone delays in exceptional cases, the petitioners failed to present circumstances justifying such an exercise of

discretion. The reasons given by the petitioners for the delays were considered insufficient (e.g., health issues or administrative oversights) and were described as mere ipsi dixit (unsupported assertions).

- The Court also observed that Section 107(4) of the CGST Act, 2017, gives the AA discretion to condone delays beyond the time limit for filing an appeal, provided the appellant was prevented by sufficient cause from presenting the appeal within three months, which is confined to a maximum period of 30 days. By including this provision, the legislature has explicitly foreclosed the discretion of the AA to condone delays beyond 30 days, even with the aid of Section 29 of the Limitation Act. Therefore, the Court held that the AA was justified in rejecting the appeals.

Order to be set aside since factual and legal contentions had not been addressed correctly: HC

Facts of the case - *Xiaomi Technology India Private Limited v. State of Karnataka* - [2024] (Karnataka)

The petitioner filed multiple refund claim applications under GST. These claims were rejected by the Appellate Authority, and the petitioner filed a writ petition. The petitioner argued that the services it provided to Xiaomi Hong Kong under a Reward Agreement qualified as ‘export of services’ under the Integrated Goods and Services Tax (IGST) Act, 2017. They contended that the monetary rewards they received were for promoting Xiaomi products in India, which increased Xiaomi’s market share and sales, thus fulfilling the requirements for the export of services. They also claimed a refund of accumulated Input Tax Credit (ITC).

The Appellate Authority dismissed the petitioner’s appeals, stating that the monetary rewards were incidental to achieving sales targets and did not constitute consideration for the export of services. The services rendered were considered to be provided in India, and thus, the place of supply was determined to be within India, not outside, under Section 13(3)(a) of the IGST Act, 2017.

Decision of the case :

- The High Court noted that the various factual and



legal contentions raised by the petitioner and the Department were not properly addressed by the Appellate Authority.

- Therefore, the Court set aside the orders passed by the Appellate Authority and remanded the matter back for reconsideration afresh, in accordance

with the law, without expressing any opinion on the merits or demerits of the rival contentions. It directed the Appellate Authority to reconsider the appeals within a stipulated time frame and provide both parties a reasonable opportunity to present additional pleadings, documents, and circulars.

DIRECT TAX

Trust established before commencement of Act can make provisions for payment of honorarium to trustees: HC

Facts of the case - Commissioner of Income-tax vs. Indian Institute of Engineering Technology - [2024] (Madras)[10-09-2024]

The assessee-trust was established in 1961, before the commencement of the Income Tax Act of 1961. As per the Memorandum of Association of the Trust, provisions were available to pay an honorarium to trust members or their family members. During the relevant assessment year, the assessee claimed total exemption under section 11.

The Assessing Officer (AO) rejected the assessee's claim for exemption under section 11, contending that the trust had spent a certain amount on the wife of the trust's founder. By virtue of said amount having been spent on the individual, it was considered a violation of section 13(1)(c).

On appeal, the CIT(A) confirmed the AO's order. On further appeal, the Tribunal reversed the order and allowed the assessee's claim of exemption under section 11. The matter then reached the Madras High Court.

Decision of the case :

- The High Court confirmed the decision of the Tribunal wherein it was held that the payment made to the said individual could not be construed as a violation of section 13(1)(c) because the trust was established well before the Act came into force, that is, on 1-2-1961 and the Memorandum of Association of the trust had paved the way for making this amount of honorarium to the trustees. When that being so, it is strictly in consonance with the Memorandum of Association, and

therefore, it cannot be construed as a violation of section 13(1)(c).

- This aspect was also considered within the meaning of sections 13(1)(c), 13(2) and 13(3) and concluded that the assessee was entitled to claim exemption under section 11. Therefore, the assessment order passed by ITAT was to be upheld.

Person can settle tax dispute under DTVSV even if dept. has filed appeal against his acquittal in criminal case: HC

Facts of the case - Sharad Kumar vs. Principal Commissioner of Income-tax - [2024] (Madras)

The assessee filed declarations in Form No. 1 and No. 2 under the Direct Tax Vivad Se Vishwas Act, 2020. The Competent Authority rejected the declarations. The assessee filed a writ petition seeking direction to the Competent Authority to accept the declarations and issue Form No. 3 as per section 5(1) of the Direct Tax Vivad Se Vishwas Act, 2020, read with Rule 4 of the Direct Tax Vivad Se Vishwas Rules, 2020.

The assessee contended that although the Enforcement Directorate had accused him in FIR under the provisions of the Prevention of Money Laundering Act, 2002, the Special Judge had acquitted him, and his declarations could not be rejected merely because the department had preferred an appeal against the order of acquittal.

However, the authority contended that the appeal against the order acquitting the assessee was pending before the High Court. Hence, the assessee's case came within the purview of section 9(c) of the Direct Tax Vivad Se Vishwas Act, 2020. Therefore, the assessee was not entitled to settle the dispute under the provisions of the aforesaid Act.

The matter reached before the Madras High Court.

Decision of the case :

- The Court held that there is indeed an embargo, restricting certain categories of individuals from benefiting from the amnesty under the Act. However, in the assessee's case, any potential sting would be governed by Section 9(c).
- An examination of Section 9(c) shows that there must either be an ongoing criminal case or a prior conviction. There is no restriction on resolving disputes for individuals who have been acquitted before submitting a declaration. Therefore, the revenue's position lacks merit.
- In light of these circumstances, the writ petition should be granted, with the provision for the department to revoke the order if the High Court upholds a conviction against the assessee.

Interest u/s 234B is payable only up to stage of Sec. 245D(1); ITSC rightly restricted interest liability: HC

Facts of the case - Commissioner of Income-tax (Central) vs. Dalip Kumar Banthiya - [2024] (Delhi)[12-09-2024]

The assessee had filed a settlement application under section 245C(1) before the Income Tax Settlement Commission (ITSC) for waiver of interest under sections 234A, 234B and 234C. The ITSC held that the interest under section 234B on the income as disclosed in the statement of facts would be charged up to the date of admission of the application under section 245D(1). However, the Commissioner of Income Tax contended that the interest should be computed till the order is passed by the ITSC under section 245D(4).

Aggrieved by the order, a writ petition was filed before the Delhi High Court.

Decision of the case :

- The High Court held that section 234B principally governs the issue of liability to pay interest in cases of default in payment of advance tax. The proviso

to section 245C(1) states that the applicant is liable to pay tax and interest on the entire amount of total income as disclosed in an application under section 245C(1). Thus, the statute places a positive and unerring obligation upon the applicant to ensure that the entire amount of tax, along with interest in accordance with the disclosures made in the application, had been paid on or before the submission date alone. The said proviso further requires proof of such payment to be attached to the application. The entire amount of tax liability computed upon the total income disclosed in that application was thus liable to be discharged before the application was submitted. This would have entailed not only the computation of tax payable on the total income as disclosed in that application but also the payment of interest that would have otherwise been attracted in terms of section 234A, section 234B and other cognate provisions in the statute.

- Once made, the application is liable to be placed before the ITSC, which follows the procedure prescribed in section 245D. As a sine qua non for the consideration of the application, the ITSC must first be satisfied that the applicant has made a full and true disclosure with respect to all details pertaining to income and the amount at which a settlement is prayed to be entered. This becomes apparent from section 245D(1), enabling the ITSC to issue a notice to the applicant to explain why the application should be allowed to proceed. The ITSC is further enabled to call for reports and records from the Principal Commissioner with respect to the disclosures as made in such an application.
- It is only after the ITSC is convinced that the applicant has made a full, true and candid disclosure, the application is admitted for further consideration. The amount the applicant may ultimately be called upon to pay could hypothetically be more than that which may be disclosed in the statement of facts. This is by virtue of the exercise and inquiry that the ITSC can undertake in terms of sub-section (3) and (4) thereof. It is only upon the conclusion of that inquiry that the ITSC proceeds to frame a formal order in terms contemplated under sub-



section (4)(a) and frame consequential directions in accordance with sub-section (6).

- Further, relying upon the distinction as laid down in the Supreme Court Judgement in the case of Brij Lal and Others v. Commissioner of Income Tax [2010] 194 Taxman 566/328 ITR 477 (SC) between the admission of an application under section 245D(1) and the determinative exercise which the ITSC ultimately takes under section 245D(4), it was held that the interest liability flowing from section 234B cannot go or travel beyond the date of admission of the application under section 245D(1).

SC rules in favour of tax dept.; reassessment notice can be issued after 01-04-2021 under old provisions

Facts of the case - Union of India v. Rajeev Bansal - [2024] (SC)

In Ashish Agarwal [2022] 138 taxmann.com 64 (SC), the Supreme Court addressed whether reassessment notices issued under the old regime were valid after the new, more favorable reassessment regime came into effect. The Court ruled that all reassessment notices post 01-04-2021 should comply with the new reassessment regime. However, notices under Section 148 of the old regime were deemed to be under Section 148A(b) of the new regime.

In the Ashish Agarwal ruling, the Supreme Court did not address whether or not the reassessment notices were issued within the time limits prescribed under the provisions of the Income Tax Act, read with the relaxations provided under TOLA.

This was the primary issue for consideration before the Supreme Court in the instant appeal. The Supreme Court held that as under:

Decision of the case :

- (1) TOLA extended the deadlines for certain actions under specified Acts that were due during the COVID-19 period. Section 3(1) of TOLA uses “any” to indicate that the relaxation applies to all actions due between 20-03-2020 and 31-03-2021. This section is concerned with the completion of actions under the specified Acts, and any amendment or substitution of provisions does not impact TOLA’s application as long as the action falls within the specified period.
- (2) Section 2(1)(b)(ii) of TOLA defines ‘specified Act’ to include the Income Tax Act and after 1 April 2021, it must be read as the Act amended by the Finance Act 2021. The substitution of Sections 147 to 151 does not impact TOLA’s purpose, which is to relax time limits for actions due between 20-03-2020 and 31-03-2021. TOLA remains applicable to the Income Tax Act after April 01, 2021 if actions under the substituted provisions fall within this period.
- (3) Section 3(1) of TOLA applies to the issuance of reassessment notices under Section 148 of the Income Tax Act. While TOLA did not amend the four- and six-year time limits under the Act, it provided a relaxation for issuing reassessment notices during the COVID-19 period.
- (4) TOLA does not apply if the time limit under Section 149 expires before 20-03-2020. When issuing a reassessment notice, the Revenue must check both the Section 149 time limit and TOLA’s relaxation period. For example, the six-year limit for AY 2013-14 expired on 31-03-2020, but TOLA extended it to 30-06-2021.
- (5) Accordingly, after April 01, 2021, the Income Tax Act has to be read along with the substituted provisions. TOLA will continue to apply to the Income Tax Act after April 01, 2021, if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20-03-2020 and 31-03-2021.
- (6) TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20-03-2020 and 31-03-2021, then the specified authority under Section 151(i) has extended time till 30-06-2021 to grant approval.

- (7) In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20-03-2020 and 31-03-2021, then the specified authority under Section 151(2) has extended time till 31-03-2021 to grant approval;
- (8) Thus, Assessing Officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time-barred and liable to be set aside.

No books maintenance requirement for agriculturist for claiming exemption u/s 10(1): ITAT

Facts of the case - Ishwar Chander Pahuja vs. ACIT - [2024] (Delhi - Trib.)

The assessee, a director of a seed company and graduate in agricultural science claimed exemption on agricultural income under section 10(1). The Assessing Officer (AO) doubted the genuineness of the agricultural income due to the absence of claimed expenses and sale bills, mostly to related parties. The AO added the agricultural income to taxable income, citing the lack of books of account as required under section 44AA.

The assessee's appeal to the NFAC was rejected, sustaining the AO's order. Aggrieved by the order, an appeal was filed to the Delhi Tribunal.

Decision of the case :

- The Tribunal held that the AO noticed from the informations submitted by the assessee that the assessee had not claimed any expenses for earning agricultural income. The details were called for from the assessee, and after observing the submissions of the assessee, the AO rejected the submissions of the assessee with the observation that the assessee did not furnish any reasonable explanation and computation of agricultural income along with books of account maintained for the agricultural activities.
- It was a fact on record that the assessee was holding agricultural land in different places, and the sales details were also submitted before AO. Also, the assessee was declaring agricultural income; it is brought to notice that income declared by the assessee for various assessment years was within the range of ₹. 33 lakhs to ₹. 38 lakh per annum. The assessee declared the income for the impugned assessment year to be around 23 lakhs without claiming any expenditure.
- The AO rejected the above income and expressed doubt about agricultural income mainly because the assessee did not claim any expenditures in the return of income. Considering the regularity and consistency of declared income over the years and subsequent assessment years, the income declared by the assessee seemed to be in order. Also, the assessee was a professionally graduated in agricultural science.
- Further, it was observed that assessee had not maintained any books of account as per section 44AA. The assessee's income falls under section 10(1) and as per section 44AA, as per the provisions of the Act, who are supposed to maintain books of account does not include agriculturists. Therefore, the assessee's case did not fall under section 44AA. It was further observed that the assessee submitted copies of bills of sale of agricultural produce to various persons, even though to the related parties.
- Therefore, there was no reason to suspect the income declared by the assessee and the assessee's appeal was allowed.

TAX CALENDAR

INDIRECT TAX

Due Date	Returns
Oct 18th, 2024	Payment of tax of Jul-Sep quarter for taxpayers under Composition Scheme [CMP-08]
Oct 20th, 2024	Monthly Return by persons outside India providing online information and data base access or retrieval services, for September. [GSTR-5A] To add/amend particulars (other than GSTIN) in GSTR-1 of Sep. It can be filed after filing of GSTR-1 but before filing corresponding GSTR-3B. For quarterly filers, it can be filed till 22/24 Oct. [GSTR-1A] Summary Return cum Payment of Tax for September by Monthly filers. (other than QRMP) [GSTR-3B]
Oct 22nd, 2024	Summary Return of Jul-Sep quarter by Quarterly filers in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep. [GSTR-3B]
Oct 24th, 2024	Summary Return of Jul-Sep quarter by Quarterly filers in Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi. [GSTR-3B]
Oct 25th, 2024	Half yearly Details of goods/capital goods sent to & from job worker for Apr-Sep for turnover above 5 cr. [ITC-04]
Oct 28th, 2024	Return for September by persons with Unique Identification Number (UIN) like embassies etc to get refund under GST for goods and services purchased by them. [GSTR-11]
Oct 31st, 2024	Avail QRMP for Oct-Dec onwards Taxpayers to declare opening balance for these new GST ledgers. [RCM ledger & ITC Reclaim ledger] Report cumulative ITC reversal (ITC that has been reversed earlier and has not yet been reclaimed) as opening balance for Electronic Credit Reversal and Re-claimed Statement.

DIRECT TAX

Due Date	Returns
Oct 30th, 2024	Due date for issue of furnishing of challan-cum-statement for tax deducted under section 194-IA, 194-IB, 194M and 194S (by specified person) in the month of September 2024 Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2024

Due Date	Returns
Oct 31st, 2024	Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2023-24
	Quarterly statement of TDS deposited for the quarter ending September, 2024
	Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September, 2024
	Copies of declaration received in Form No. 60 during April 1, 2024 to September 30, 2024 to the concerned Director/Joint Director
	Due date for filing of return of income for the assessment year 2024-25 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply
	Audit report under section 44AB for the assessment year 2024-25 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
	Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
	Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager (if the assessee is required to submit return of income on October 31, 2024)
	Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is October 31, 2024)
	Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company does not have any international/specified domestic transaction]
	Intimation in Form 10BBB by a pension fund in respect of each investment made in India for quarter ending September, 2024
	Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for quarter ending September, 2024

E-PUBLICATIONS

Of

TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals

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

Impact of GST on Real Estate

Insight into Customs-Procedure & Practice

Input Tax Credit and In depth Discussion

Taxation on Co-operative Sector

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

Guidance Note on Anti Profiteering

Handbook on GST on Service Sector

Handbook on Works Contract under GST

Handbook on Impact of GST on MSME Sector

Assessment under the Income Tax Law

Impact on GST on Education Sector

International Taxation and Transfer Pricing

Handbook on E-Way Bill

Handbook on Filing of Returns

Handbook on Special Economic Zone and Export Oriented Units

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

[illegible]

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes an attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

Contact Details:

Tax Research Department
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

Ph: 091-33-2252 1031/34/35/1602/1492

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

Ph: 091-11-24666100