

December, 2024

# TAX Bulletin

Volume - 173  
02.12.2024



## **THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

[www.icmai.in](http://www.icmai.in)

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

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

Ph: 091-11-24666100

## VISION STATEMENT

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

## MISSION STATEMENT

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

## Objectives of Taxation Committees:

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

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# The Institute of Cost Accountants of India

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## Certificate Courses Offered by the Tax Research Department

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

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

### Modalities

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

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

### Eligibility Criteria for Admission

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

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

### Course Details

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

## Courses for Colleges & Universities by the Tax Research Department

### Modalities

### Eligibility

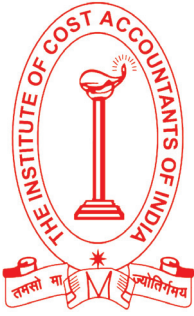
- ▲ B.Com/ BBA pursuing or completed
- ▲ M.Com/ MBA pursuing or completed

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

For enquiry about courses, mail at: [trd@icmai.in](mailto: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**

The Institute on receipt of an invitation from the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, met the officials of CBDT for the meeting, discussion and submission of the Pre-Budget Memorandum, 2025-26 on the 19th of November, 2024. The meeting had been scheduled under the Chairmanship of Shri Ramesh Narain Parbat, Member (Legislation) CBDT. The discussion in the meeting had been very successful, with submission of suggestions on both Direct and Indirect Tax. The suggestions on Direct had been segregated into topics like: (i) Industrial & Manufacturing Sector, (ii) Green Energy and Addressing Climate Change, (iii) International Taxation & Transfer Pricing, (iv) Merger & Acquisition (M&A) (v) Ease of Doing Business (vi) Withholding Tax (vii) Financial Services (viii) Education Sector (ix) Digital Tax (x) Personal Tax and (xi) Industry Specific Suggestions. Indirect Tax had segregations of suggestions on GST, Central Excise and Customs. Among the Institute representatives' myself, CMA Mrityunjay Acharjee, General Manager (Finance), Numaligarh Refinery Ltd and CMA Shailendra Berdia, Cost Accountant were present at the meeting.

On the department side, Admissions to the Taxation Courses has been extended till 10.12.2024. The details can be reached at: <https://eicmai.in/OCMAC/TRD/TRD.aspx>. The courses are:

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

An important webinar was conducted on 29.10.2024 on the topic, 'Registration procedure for Trusts under Income Tax, 1961'. The faculty for the session was CMA Ajith Sivas, Cost Accountant. The webinar was participated by huge number of members and the session was quite interactive.

Tax Bulletins are published regularly and all other activities are being carried on seamlessly by the department.

**CMA Rajendra Singh Bhati**  
**Chairman – Direct Taxation Committee**  
The Institute of Cost Accountants of India  
02.12.2024

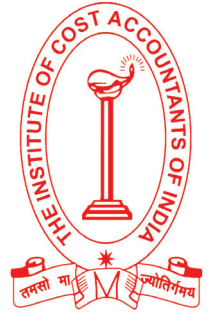




# Chairman's Message

**CMA Dr. Ashish P. Thatte**

**Chairman Indirect Taxation Committee**



**G**ST Collections for the month of November grew 8.5 per cent year-on-year at ₹ 1.82 Lakh Crore witnessing a dip compared to ₹ 1.87 Lakh Crore in October 2024. Maharashtra recorded the highest GST collection among all states, registering ₹ 29,948 crore, a 17 per cent year-on-year increase compared to November 2023.

The gross GST revenue from imports in November 2024 stood at ₹ 42,591 crore, up by 5.9 per cent compared to ₹ 40,234 Crore in November 2023. The IGST collected on imports alone amounted to ₹ 41,736 Crore, indicating an increase in import activities.

Also, the due date for furnishing the return in FORM GSTR-3B for the month of October, 2024 is extended till the 13th November, 2024, for the registered persons whose principal place of business is in the State of Manipur and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017. For the state of Maharashtra and Jharkhand the said date is till 21st November, 2024.

The CBIC has also taken steps to appoint common adjudicating authority for show cause notices issued by DGGI. On the part of the department, admissions to the Taxation Courses has been extended till 10th December, 2024. The details can be reached at: <https://eicmai.in/OCMAC/TRD/TRD.aspx>. The courses are:

- (i) Certificate Course on GST (Batch – 17)
- (ii) Advanced Certificate Course on GST (Batch – 13)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 10)
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The publication of Tax Bulletin and conduct of quiz is done regularly.

I wish the best regards to the department and the Resource Persons for their efforts.

*Ashish Thatte*

**CMA (Dr) Ashish P Thatte**

Chairman – Indirect Taxation Committee

**The Institute of Cost Accountants of India**

02.12.2024

## TAXATION COMMITTEES 2024 - 2025

### Indirect Taxation Committee

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CMA T C A Srinivasa Prasad - Vice-President

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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

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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

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CMA Arindam Goswami  
CMA Manmohan Daga  
CMA Pounraj Ganesan  
CMA Ajith Sivadas

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

# C O N T E N T S



Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to  
[trd@icmai.in](mailto:trd@icmai.in) / [trd.dd2@icmai.in](mailto:trd.dd2@icmai.in)

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# Analysis of a Special Procedure for the Rectification of Orders Notified Under Section 148 of the CGST Act, 2017

(Relief from demand raised due to wrong the availment of ITC for FY 2017-18, 2018-19, 2019-20 and 2020-21 in Contravention of Section 16(4))



CMA Pounraj Ganesan

Cost Accountant

The Goods and Services Tax (GST) Council, in its 53rd meeting held on June 22, 2024, recommended relaxation in the condition of Section 16(4) of the Central Goods and Services Tax (CGST) Act, 2017 (hereinafter referred to as “the Act”) for the initial years of GST implementation, i.e., **financial years 2017-18, 2018-19, 2019-20, and 2020-21.**

The Council proposed that the time limit to avail input tax credit (ITC) in respect of any invoice or debit note under Section 16(4) of the Act, through any return in **FORM GSTR-3B filed up to November 30, 2021**, for the aforementioned financial years, be deemed to be November 30, 2021.

Additionally, it recommended a conditional relaxation of the provisions of Section 16(4) in cases where registered persons, whose registrations had been canceled, filed returns for the period from the effective date of cancellation to the date of revocation of such cancellation, provided these returns were filed within 30 days of the revocation order. To implement these changes, the Council proposed a requisite retrospective amendment to Section 16(4) of the CGST Act, effective from July 1, 2017.

In response to these recommendations, the Central Government has inserted sub-sections (5) and (6) into Section 16 of the Act through Sections 118 and 150 of the Finance (No. 2) Act, 2024.

**Sub-section (4), sub-section (5) and sub-section (6) of section 16 of the Act are reproduced below:**

*“(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.*

*Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.*

*(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.*

*(6) Where registration of a registered person is cancelled*

*under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—*

*(i) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or*

*(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.”*

Further, Section 150 of the Finance (No.2) Act, 2024 (reproduced below), provides that no refund of any tax paid or the input tax credit reversed shall be granted due to retrospective insertion of sub-section (5) and (6) of section 16 of the Act.

*“150. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times.”*

### **Implementation of Amendments: GST Council’s Recommendations and CBIC’s Action**

The Goods and Services Tax (GST) Council, in its 54th meeting held on October 8, 2024, recommended the establishment of a mechanism to implement the newly inserted sub-sections (5) and (6) of Section 16 of the CGST Act, 2017. Additionally, the Council suggested notifying a special procedure under Section 148 of the Act for the rectification of orders. It also recommended issuing a circular to provide procedural clarity and address various issues related to the implementation of these provisions.

In response, the Central Board of Indirect Taxes and Customs (CBIC) issued Notification No. 22/2024-Central Tax on October 8, 2024, and Circular No. 237/31/2024-GST on October 15, 2024. These documents detail the mechanism for implementing these amendments and provide a special procedure for rectifying orders related to the wrong availment of Input Tax Credit (ITC).

#### **Scope and Applicability**

- Orders issued under Sections 73, 74, 107, or 108 of the CGST Act for ITC demands due to violations of Section 16(4).
- Taxpayers who are now eligible for ITC under Sections 16(5) or 16(6).
- Cases where no appeal have been filed against the said orders.

#### **Procedure for Rectification**

##### **1. Application Filing:**

- Taxpayers must submit an electronic application for rectification on the GST portal within six months of the notification’s issuance (i.e., by April 8, 2025).
- Applications should include details such as GSTIN, order specifics, and ITC demand particulars, as outlined in Annexure A of Notification No. 22/2024.

##### **2. Authority and Decision:**

- The rectification process will be managed by the officer who issued the original order.
- The officer is required to decide on the application and issue a rectified order within three months of receiving the request.

##### **3. Form Updates:**

- FORM GST DRC-08: For rectifications under Sections 73 or 74 (ITC wrongly availed/utilized, whether due to fraud or otherwise).
- FORM GST APL-04: For rectifications under Sections 107 or 108 (appeals against adjudicating or revisional authorities’ orders).



**4. Eligibility for Rectification:**

- Rectifications are restricted to ITC that was wrongly availed due to non-compliance with Section 16(4) but is now eligible under Section 16(5) or 16(6).

**Scenarios for Rectification and ITC Claims**

Scenario	Action may be taken by the tax authorities and/or the taxpayers
No Demand Notice Issued	If proceedings are ongoing for ITC violations under Section 16(4) but no demand notice under Sections 73 or 74 has been issued, authorities must consider the retrospective provisions of Sections 16(5) and (6).
Demand Notice Issued but No Final Order	In cases where a demand notice has been issued, adjudicating authorities must account for the retrospective provisions when passing orders under Sections 73 or 74.
Demand Order Issued and Appeal Filed but No Order Passed by Appellate Authority	If an order is under appeal with the Appellate Authority, the retrospective provisions must be considered when issuing final orders under Section 107.
Revisional Authority Proceedings Pending	If the proceedings are pending with the Revisional Authority, the retrospective provisions must be considered before passing final orders under Section 108.
No Appeal Filed Against Demand Notice	Taxpayers may file rectification applications under Notification No. 22/2024 within six months.

**Procedure for filing an application for rectification in GST Portal:**

In case where an application for rectification of an order is issued under section 73 or section 74 of the Act:

**Services > User Services > My Applications > Application for rectification of order > New Application**

The screenshot shows the GST Portal interface. The top navigation bar includes 'Dashboard', 'Services', 'GST Law', 'Search Taxpayer', 'Help and Taxpayer Facilities', 'e-Invoice', and 'News and Updates'. Under 'Services', the 'User Services' menu is highlighted. The 'My Applications' sub-menu is also highlighted. The main content area shows a list of application types, with 'Application for rectification of order' selected. Below this, there are fields for 'From Date' and 'To Date', both with calendar icons. A 'SEARCH' button and a 'NEW APPLICATION' button are visible at the bottom right.

In case where an application for rectification of an order is issued under section 107 and under section 108 of the Act: **Services > User Services > View Additional Notices/Orders > Click the “View” hyperlink > Orders > click the “Initiate Rectification”**

Notices and Orders Additional Notices and Orders

Type of Notice/Order	Description	Ref ID	Date of Issuance	Action
			06/11/2024	<a href="#">View</a>
DETERMINATION OF TAX	Order for Determination of Tax		27/04/2024	<a href="#">View</a>

NOTICES

REPLIES

ORDERS

RECTIFICATION

ADDITIONAL DOCUMENT

Legal Name

Trade Name GST

Order/Reference Number	Order Category	Date of Order	Passed By	Documents	Reasons	Action
	REVISION ORDER	.....		<a href="#">REVISION ORDER.pdf</a>	NA	<a href="#">Initiate Rectification</a>

## Conclusion

The amendments introduced in Sections 16(5) and 16(6) provide a robust mechanism for addressing past ITC discrepancies under the GST framework. The special rectification procedure, coupled with clarifications from the GST Council and CBIC, ensures consistent application and procedural ease for taxpayers. Businesses are encouraged to utilize these provisions to resolve past disputes and comply with GST regulations.

# Immunity from consequences due to Non-deduction or Short deduction of TDS.



CMA Ajith Sivadas

Cost Accountant

## I. Introduction

**N**on-Deduction or short deducted results in the assessee being considered as an “Assessee in Default” under section 201(1) of the Income Tax Act, 1961. A payer, whether he is an employer, or a person responsible for paying any amount under the head Salaries like the principal officer of a company) who is liable to deduct tax at source in terms of section 192 of the Act, or the person making payments of the type covered under sections 193 to 196D of the Act, will be treated as an assessee in default for any of the following defaults :

- Failure to deduct tax at source, either in full or in part.
- Failure to pay such tax, either in full or in part, without deducting it at source.
- Failure to pay such tax, either in full or in part, after deducting it at source

The only situation where the payer will not be treated as an assessee in default is in cases where the payee (i.e., the employee in case of ‘salary’ or the person who receives or is credited with the amount in the other cases) has directly paid the tax due to the Government. The impact of treating a person as an assessee in default is that recovery proceedings under the Act will be initiated against such person for realizing the tax due.

In addition, the person will also face the following consequences:

### 1. Disallowance of Expenditure

#### ● Section 40(a)(i)

Notwithstanding anything to the contrary in sections 30 to [2][38], the following amounts shall not be deducted in computing the income chargeable under the head Profits and gains of business or profession in the case of any assessee any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable, (A) outside India; or (B) in India to a non-resident, not being a company or to a foreign company, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid [on or before the due date specified in sub-section (1) of section 139]

#### ● Section 40(a)(ia)

- ▶ **Thirty per cent** of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139

#### ● Section 40(a)(iii)

- ▶ Disallowance for any payment which is chargeable under the head “Salaries”, if it is payable :--
  - (A) outside India; or
  - (B) to a non-resident,



and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;].

● **Section 58(1A)**

- ▶ The provisions of [sub-clauses (ia) and (iia)] of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head Income from other sources as they apply in computing the income chargeable under the head Profits and gains of business or profession .

**2. Levy of interest – Sec 201 (1A)**

- Non-deduction of tax at source, either in whole or in part
  - ▶ Interest 1% Per Month
  - ▶ **Period for which interest is to be paid:** From the date on which tax-deductible to the date on which tax is actually deducted.
- After deduction of tax, non-payment of tax either in whole or in part
  - ▶ Interest 1.5% Per Month
  - ▶ Period for which interest is to be paid: From the date of deduction to the date of payment

**3. Levy of Penalty**

● **Section 221**

- ▶ When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the [3] [Assessing] Officer may direct, and in the case of a continuing default, such further amount or amounts as the [4][Assessing] Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears

● **Section 271C**

- ▶ If any person fails to deduct the whole or

any part of the tax as required by or under the provisions of Chapter XVII-B; or pay the whole or any part of the tax as required by or under, --sub-section (2) of section 115-O; or second proviso to section 194B, then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.

Any penalty imposable under sub-section (1) shall be imposed by the [4][Joint Commissioner

● **Section 271H**

- ▶ Penalty for failure to furnish statements, etc
- ▶ The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees

No penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.

● **Section 234E**

Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues

● **Section 270A**

Penalty for under-reporting and misreporting of income:

**UNDER REPORTING-** The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income



MIS REPORTING- Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent. of the amount of tax payable on under-reported income

#### 4. Prosecution – Sec 276 B

If a person fails to pay to the credit of the Central Government-the tax deducted at source by him as required by or under the provisions of Chapter XVII-B; or the tax payable by him, as required by or under, -- sub-section (2) of section 115-O; or the second proviso to section 194B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

- ▶ has taken into account such sum for computing income in such return of income; and
- ▶ has paid the tax due on the income declared by him in such return of income and the person furnish a certificate to this effect from the chartered accountant in such form as prescribed.

Provided that the person has to pay a simple interest on the sum not deducted or pay from the date which such tax was deductible to the date of furnishing of return of Income. \*\*\* To be paid by “Deductor” \*\*\*.

As per the sub-rule (1) of the Rule 31ACB of the Income Tax Rule 1962, the certificate from the chartered accountant under the proviso to section 201(1) shall be furnished in form 26A electronically. As proof to substantiate that the aforesaid requirements are fulfilled, the person who has failed to deduct tax must furnish a certificate from a chartered accountant to the effect that the aforesaid requirements have been fulfilled. The certificate must be in Form No. 26A and shall be furnished to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems). See Notification No. 11/2016 [F No. DGIT(S)/ CPC(TDS)/ Notification/2016-17], dated 2-12-2016]

## II. Statutory Immunity / Remedy

Section 201(1) of the Income Tax Act stipulates that failure to deduct or pay TDS leads to being deemed an “Assessee in Default.” However, the proviso to section 201(1) along with rule 31ACB provides relief for resident payees who have met certain criteria, including PAN validation and tax payment.

#### ● Section 201(1)

Section 201(1) of the Income Tax Act states that where any person required to deduct TDS under the provisions of the Act but does not deduct or does not pay then, such person shall be deemed to be an assessee in default in respect of such tax.

Proviso to section 201(1) read with rule 31ACB

Any person who fails to deduct or pay TDS under the provisions of the Act on the amount paid or credit to the resident payee shall not be deemed to an assessee in default in respect of such tax if such resident payee (Deductee)-

- ▶ has furnished his return of income under section 139;

#### Benefits

- The assessee would not be labelled as “Assessee in Default”.
- The assessee would be allowed with the expenditure disallowed earlier.
- The assessee would be safe from the Penalty and prosecution if reasonable cause is given.

## III. Procedure

The CBDT vide notification number 11/2016 dated 2nd December 2016 has provided the procedure for furnishing and verification of Form 26A for removing default of Short Deduction and or Non-Deduction of Tax at source.

## Traces of Deductor

The deductor has to go to the TRACES portal and submit a request for Form 26A.

Step No. 1	Login to traces>Statement and payments>request for 26A/27BA
Step No. 2	Select Financial year, Form type (26Q, 24Q and 27EQ) and transaction type (Non- Deduction/collection).
Step No. 3	<p>To submit the transaction details, a .nzip file must be uploaded. Procedure for generating .nzip file.</p> <ol style="list-style-type: none"> <li>i. Go to Downloads &gt; Requested Downloads</li> <li>ii. Enter the captcha and scroll down unless you see TRACES Sample – 26A – 27BA. Download Utility and sample 26A non-deduction file.</li> <li>iii. In the sample .CSV file, fill the requisite details: PAN of Payee, Date of Payment, Amount paid or credited, section, Amount of TDS, Short/non deducted amount and non-deduction section e., 201(1)</li> <li>iv. Save the file in .CSV format</li> <li>v. Open the downloaded Utility, and fill in the details: TAN of the deductor, Financial Year, form type, transaction type, location of .CSV file, and location for .nzip file.</li> </ol>
Step No. 4	After generating the .nzip file, upload it to the TRACES with the DSC of the authorized signatory. The status of form 26A will be submitted after filing.
Step No. 5	Once the status is “Sent to E-Filing” Deductor can proceed further to the E-filing portal

## E-Portal of Deductor

Step No. 1	Go to the e-filing Portal. Log in as a deductor.
Step No. 2	Select e-File >Income Tax Form>File Income Tax Forms> person not dependent on source of income>Search form 26A>file now.
Step No. 3	<p>Select Financial Year&gt; Select the particular transaction of Traces and choose Assign Accountant and enter the membership number of the Accountant who is certifying Annexure A of form 26A.</p> <p>Accountant will be assigned. This request for Form 26A will be displayed in an e-filing portal of the Accountant.</p>



## E-Portal of Accountant, as defined in Income Tax Act, 1961

The Accountant has to login into e-filing. Go to Worklist> For your Action> Annexure A of form 26A/27BA.

Accountant will find the name of the Deductor and Payee in whose respect Form 26A is furnished. Click on File Now/Submit.

Fill in the details of the return of Income filed by the Payee like date of filing, mode of filing, acknowledgement number, form type(ITR1,2,3,4,5,6,7), amount of taxable income as per return, The tax due on Income declared and Amount of Tax deposited

Fill in the details of the Income under which the said Income transactions have been considered. Information to be filled is – Name of the head under which income is accounted for, Receipts on which tax has not been deducted, gross receipts under the head of income under which the receipts are accounted for, Net receipts under the head of income, taxable income under the head of income. Download the nd\_details in case of non-deduction and sd\_detail in case of short deduction.

Transactions on which the TDS is not deducted or short-deducted will be auto-reflected in the sheet. Accountant will only need to put (Y/N) on the said transaction in the Accountant Certification column and upload the sheet back to the portal in .CSV format.

Submit the form with DSC.

## E-Portal of Deductor

Go to the e-filing Portal. Log in as a deductor

Select e-File >Income Tax Form>File Income Tax Forms> saved form 26A> check the status of submission by Accountant as submitted

Submit the form 26A with EVC or DSC.

## Final Result

- Now log in to TRACES of deductor and the status of form 26A will be changed to pending for processing at TDS-CPC.
- After processing, the Status of the form can be processed, rejected, processed with partial rejection, or processed with rejection.
- If the status is “Processed” Traces will re-calculate the short deduction and late deduction interest will be generated accordingly by the TRACES, which can be viewed by the Deductor.
- At times, Traces may require verification through Form 26A to the relevant A.O. In such situations, Form 26A is Processed with the remark “Contact AO for short deduction/Non-Deduction”.
- In such cases, the deductor or their authorized representative must visit the relevant A.O with supporting documentation and request that the officer declare the deductor as “Assessee not in default”. The officer will verify the validity of the short deduction/Non-deduction transactions, the payee’s filed return of income, and tax payments. They will also ensure that interest under section 201(1) has been paid up until the date of the payee’s filed return. If everything checks out, the A.O may declare the deductor as “Assessee not in default”.



The government offers Form 26A as an excellent opportunity to save taxes and avoid default, but many people are not aware of these reliefs. I hope that the information provided above is helpful to you.

## IV. Conclusion:

Form 26A offers a pathway to rectify TDS defaults, granting relief from being deemed an “Assessee in Default.” By adhering to the prescribed procedure and fulfilling requirements, taxpayers can avoid penalties, prosecution, and disallowed expenditures.





# PRESS RELEASE

## DIRECT TAX

### PAN 2.0: A Digital Leap in Taxpayer Services

Posted On: 27 NOV 2024 4:00PM by PIB Delhi

The Permanent Account Number (PAN) has long been a cornerstone of India's financial and administrative systems, connecting individuals and businesses to vital economic activities while promoting financial transparency and compliance. As a key enabler of the digital economy, PAN has transformed into a gateway for essential services, making it indispensable in daily life. To enhance user-friendliness and align with technological advancements, the Cabinet has recently approved PAN 2.0, a step forward in redefining how PAN serves India's evolving digital and financial landscape.

#### PAN 2.0: A Landmark in Financial Innovation

The PAN 2.0 Project is a transformative initiative to modernise taxpayer registration through advanced e-governance. With a financial outlay of **₹1,435 crore**, it **re-engineers the PAN/TAN services** to offer seamless digital experiences. This project aims to streamline and modernise the process of issuing and managing PAN and TAN, making it more user-friendly and efficient. The project addresses the requirements of taxpayers, focusing on consolidation of multiple platforms/portals and efficient services to PAN/ TAN holders.

#### PAN 2.0 Project enables technology driven transformation of Taxpayer registration services and has significant benefits including:

- A single portal for all PAN/TAN-related services to simplify access for users.
- Eco-friendly paperless processes to reduce paperwork.

- PAN will be issued free of cost, with quicker processing times.
- Personal and demographic data will be protected through enhanced security measures, including a PAN Data Vault.
- A dedicated call centre and helpdesk to address user queries and issues.

#### PAN 2.0 Revolutionizing Existing System

PAN 2.0 aims to revolutionize the existing system by integrating all PAN/TAN services into a unified portal, ensuring a seamless and paperless process. Free e-PAN services and simplified updates enhance convenience for taxpayers. Have a look at these key features in detail: -

- Integration of Platforms:** PAN-related services are currently hosted on three different portals (**e-Filing Portal, UTITSL Portal and Protean e-Gov Portal**). In the PAN 2.0 Project, all PAN/TAN-related services will be hosted on a single unified portal of the Income Tax Department. The said Portal would host all end-to-end services related to PAN and TAN like allotment, updation, correction, Online PAN Validation (OPV), Know your AO, AADHAAR-PAN linking, verify your PAN, request for e-PAN, request for re-print of PAN card etc.
- Comprehensive use of technology for paperless processes:** Complete the online paperless process as against the prevailing mode.
- Taxpayer facilitation:** Allotment/updation/correction of PAN will be done free of cost, and e-PAN will be sent to the registered mail ID. For a physical PAN card, the applicant has to request along with the prescribed fee of ₹. 50 (domestic). For delivery of the card outside India, ₹ 15 + India post charges at actuals will be charged to the applicant.

## Changes for Existing PAN Cardholders

Old PAN cardholders need not worry—existing PAN cardholders are not required to apply for a new PAN under the upgraded system. The current valid PAN cards will remain fully operational under PAN 2.0 unless holders request an update or correction. No new PAN card will be issued unless a specific request for updates or corrections is made.

## QR Code Feature in PAN 2.0

A look at the QR code feature and what's changing under PAN 2.0:

- i. The QR code is not new; it has been part of PAN cards since 2017-18. Under PAN 2.0, it will be enhanced with a dynamic QR code displaying the latest data from the PAN database.
- ii. PAN holders with older cards lacking a QR code can apply for a new card with a QR code under both the current PAN 1.0 system and the upgraded PAN 2.0.
- iii. The QR code facilitates validation of PAN details, ensuring authenticity.
- iv. A dedicated QR reader application is available to verify details. When scanned, it displays the holder's photo, signature, name, parents' names, and date of birth.

## Global Standards for Secure and Seamless Services

The PAN 2.0 Project adopts global standards to enhance taxpayer registration with seamless digital processes and strong data security. It ensures compliance with key ISO certifications for quality, security, and service management (e.g., ISO 27001, ISO 9001). The project streamlines PAN/TAN registration with simplified online processes, minimal documentation, and centralized databases, improving user experience while safeguarding data through robust security and international best practices.

## PAN Service in India[1]

PAN 2.0 builds upon decades of evolution since the

introduction of the Permanent Account Number (PAN) in 1972. Designed as a unique 10-digit alphanumeric identifier, PAN links an individual or entity's financial transactions, such as tax payments, TDS/TCS credits, and income returns, to the Income Tax Department. By streamlining and modernizing these processes, PAN 2.0 aims to enhance efficiency, security, and ease of access, ensuring a robust digital framework that simplifies compliance and strengthens financial transparency.

## PAN is to be obtained by –

- Every person if his total income or the total income of any other person in respect of which he is assessable during the year exceeds the maximum amount which is not chargeable to tax.
- A charitable trust who is required to furnish return under Section 139(4A)
- Every person who is carrying on any business or profession whose total sales, turnover, or gross receipts are or is likely to exceed five lakh rupees in any year
- Every person who intends to enter into specified financial transactions in which quoting of PAN is mandatory.
- Every non-individual resident person and person associated with them shall apply for PAN if the financial transaction entered into by them during the financial year exceeds ₹. 2,50,000.

## Penalty for not having PAN or having more than one PAN:

- Section 272B of the Income-tax Act imposes a penalty of ₹. 10,000 for taxpayers who fail to comply with PAN-related provisions. This includes not obtaining a PAN when required, knowingly quoting an incorrect PAN on prescribed documents, or providing an incorrect PAN to the person deducting or collecting tax.
- As per the Income-tax Act, no individual is allowed to hold more than one PAN. If a person does hold multiple PANs, they must inform the Jurisdictional Assessing Officer and request the additional PAN to be deactivated or deleted.



- Under PAN 2.0, the system has been enhanced with improved logic to identify duplicate PAN requests. This centralized and advanced mechanism will help minimize instances of individuals holding more than one PAN.

## TAN Allotment [2]

TAN (Tax Deduction and Collection Account Number) is a 10-digit alphanumeric code issued by the Income Tax Department for entities responsible for TDS/TCS. It is mandatory for filing returns, making payments, and issuing TDS/TCS certificates. TAN cannot be replaced with PAN except under specific provisions like Section 194-IA. Failure to obtain or quote TAN can lead to penalties, emphasizing its critical role in ensuring compliance with tax regulations and accurate deduction tracking.

## Conclusion

The PAN 2.0 Project marks a significant leap towards modernizing India's tax system with enhanced digital processes, security, and greater accessibility. By shifting to a Direct Delivery Model and integrating global best practices, it promises a more streamlined and efficient experience for taxpayers, aligning with the government's vision of a digital India. This initiative not only simplifies services but also ensures data security and transparency, fostering better tax compliance and governance.

## References

- <https://pib.gov.in/PressReleasePage.aspx?PRID=2077104> (PAN 2.0)
- <https://incometaxindia.gov.in/Documents/Direct%20Tax%20Data/Income-Tax-Department-PAN-Allotment-Statistics-Up-to-31-03-2024.pdf> (PAN Allotment Data)
- <https://incometaxindia.gov.in/Pages/Direct-Taxes-Data.aspx> (PAN Allotment)
- [https://incometaxindia.gov.in/tutorials/1.permanent%20account%20number%20\(pan\).pdf](https://incometaxindia.gov.in/tutorials/1.permanent%20account%20number%20(pan).pdf) (PAN)
- <https://www.incometax.gov.in/iec/foportal/help/e-filing-know-tan-faq> (TAN)
- <https://incometaxindia.gov.in/Pages/about-us/history-of-direct-taxation.aspx> (PAN Timeline)
- <https://incometaxindia.gov.in/tutorials/23.%20tan.pdf> (TAN)
- <https://pib.gov.in/PressReleasePage.aspx?PRID=2077608> (FAQs)

## PAN 2.0: A Digital Leap in Taxpayer Services

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# NOTIFICATIONS

## INDIRECT TAX

### GST (Central Tax)

#### Notification No. 26/2024–Central Tax

New Delhi, dated the 18th November, 2024

G.S.R...(E).— In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the month of October, 2024 till the twenty-first day of November, 2024, for the registered persons whose principal place of business is in the state of Maharashtra and Jharkhand and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

[F. No. CBIC-20001/8/2024-GST]

#### Notification No. 27/2024–Central Tax

New Delhi, the 25th November, 2024

G.S.R (E).– In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 02/2017-Central Tax, dated the 19th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 609(E), dated the 19th June, 2017, namely:-

In the said notification, for Table V, the following table shall be substituted, namely:–

“TABLE V

Powers of Additional Commissioner or Joint Commissioner of Central Tax for passing an order or decision in respect of notices issued by the officers of Directorate General of Goods and Services Tax Intelligence

Sl. No.	Principal Commissioner or Commissioner of Central Tax	Powers (Exercisable throughout the territory of India)
(1)	(2)	(3)
1.	Principal Commissioner Ahmedabad South	Passing an order or decision in respect of notices issued by the officers of Directorate General of Goods and Services Tax Intelligence under sections 67, 73, 74, 76, 122, 125, 127, 129 and 130 of Central Goods and Services Tax Act 2017.
2.	Principal Commissioner Bengaluru East	
3.	Principal Commissioner Bhopal	
4.	Principal Commissioner Bhubaneswar	
5.	Principal Commissioner Chandigarh	
6.	Commissioner Chennai South	
7.	Principal Commissioner Delhi North	



Sl. No.	Principal Commissioner or Commissioner of Central Tax	Powers (Exercisable throughout the territory of India)
(1)	(2)	(3)
8.	Commissioner Delhi West	
9.	Commissioner Faridabad	
10.	Principal Commissioner Guwahati	
11.	Principal Commissioner Jaipur	
12.	Principal Commissioner Kolkata North	
13.	Principal Commissioner Lucknow	
14.	Principal Commissioner Meerut	
15.	Commissioner Nagpur-II	
16.	Commissioner Palghar	
17.	Commissioner Pune-II	
18.	Commissioner Rangareddy	
19.	Principal Commissioner Ranchi	
20.	Commissioner Surat	
21.	Commissioner Thane	
22.	Commissioner Thiruvantathapuram	
23.	Principal Commissioner Visakhapatnam	

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

[F. No. CBIC-20016/2/2022-GST]

## Notification No. 28/2024–Central Tax

**New Delhi, the 27th November, 2024.**

S.O ... (E).— In exercise of the powers conferred by section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Indirect Taxes and Customs, hereby appoint officers mentioned in column (4) of the Table below for passing an order or decision in respect of notices mentioned in column (3) of the said Table, issued to the noticees mentioned in column (2) of the said Table, by the officers of Directorate General of Goods and

Services Tax Intelligence under sections 73, 74, 122, 125 and 127 of Central Goods and Services Tax Act 2017, namely:—

The entire notification can be read at <https://taxinformation.cbic.gov.in/view-pdf/1010228/ENG/Notifications>]

## Notification No. 29/2024 – Central Tax

**New Delhi, the 27th November, 2024.**

G.S.R.....(E).— In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the month of October, 2024 till the thirtieth day of November, 2024, for the registered



persons whose principal place of business is in the State of Manipur and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017. 2. This notification shall be deemed to have come into force with effect from the 20th day of November, 2024.

[F. No. CBIC-20001/9/2024-GST]

## Customs (Non - Tariff)

### Notification No. 81/2024-Customs (N.T.)

New Delhi, the 14th November, 2024

S.O. (E).- In exercise of the powers conferred by clause (a) of sub-section (1) of the section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in the Notification No. 62/1994-Customs (N.T.) dated the 21st November, 1994 of the Government of India, Ministry of Finance (Department of Revenue), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 829 (E), dated the 21st November, 1994, namely:-

In the said notification in the Table, against serial number 5 relating to the State of Gujarat, in column (3) and (4), after item (31) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely: -

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

[F.No. CBIC-520520/2/2024]

### Notification No. 82/2024 - Customs (N.T.)

New Delhi, the 20th November, 2024

S.O. (E). – In exercise of the powers conferred by clauses (b) and (c) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 63/1994-Customs (N.T.) dated the 21st November, 1994, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 830 (E), dated the 21st November, 1994, namely: -

In the said notification, in the opening paragraph, for the fourth proviso, the following shall be substituted, namely:-

“Provided also that the clearance of the following class of goods only shall be permitted at Balat, Kalaichar, Srinagar, Kamalasar, Bholaganj, Nalikata and Ryingku Border Haats, namely:-

- locally produced vegetables, food items, fruits, spices;
- minor forest produce including bamboo, bamboo grass and broom stick but excluding timber;
- products of cottage industries like gamcha, lungi, saree and any other handloom product;
- small household and agricultural implements including dao, plough, axe, spade, chisel and the like; and
- garments, melamine products, processed food items, fruit juice, toiletries, cosmetics, plastic products, aluminum products, cookeries, stationery.

**Explanation-** For the purposes of this notification, the term “locally produced” shall mean produce of the concerned border district.”

[F.No. 550/3/2010-LC]



## Notification No. 83/2024-Customs (N.T.)

New Delhi, the 21st November, 2024

G.S.R (E).- In exercise of the powers conferred by clause (aa) of sub-section (1) read with sub-section (2) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/97-Customs (N.T.) dated the 2nd April, 1997, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 193 (E), dated the 2nd April, 1997, namely:-

In the said notification in the Table, against serial number 10 relating to the State of Rajasthan, in column (3) and (4), after item (v) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
		“(vi) Dhanakya	Unloading of imported goods and the loading of export goods or any class of such goods.”

[F.No. CBIC-50394/12/2021]

## Customs (Anti-Dumping Duty)

## Notification No. 25/2024-Customs (ADD)

New Delhi, the 22nd November, 2024

G.S.R..... (E).- In exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs

Tariff Act, 1975 (51 of 1975) read with rules 18, 20, 23, 29 and 31 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, hereby makes the following amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 18/2021-Customs (ADD), dated the 27th March, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 216(E), dated the 27th March, 2021, namely:-

In the said notification, in the TABLE, against Sl. No. 2, in column 7, for the entry, the entry “40.41” shall be substituted.

[F. No. CBIC-190354/173/2024-TRU Section-CBEC]

## Central Excise (Tariff)

## Notification No. 28/2024-Central Excise

New Delhi, the 19th November, 2024

G.S.R. (E)... – In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2017-Central Excise, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 793(E), dated the 30th June, 2017, namely:-

In the said notification, in the first proviso to the opening paragraph, for the figures, letters and words “goods specified against Sl. No. 7”, the figures, letters and words “goods specified against Sl. No. 7 and 7C” shall be substituted.

- This notification shall come into force with effect from 20th November, 2024.

[F. No. CBIC-190341/74/2024-TRU]

## DIRECT TAX

### Notification No.06/2024

#### F. No. 30/DGIT(S)BLR/e-Filing Notification/Forms/2024

**Dated: 19-11-2024**

Specifying Forms prescribed in Appendix-II of the Income Tax Rules 1962, to be furnished electronically under sub-rule (1) and sub-rule (2) of Rule 131 of the Income- tax Rules, 1962,

In exercise of the powers conferred under sub-rule (1) and sub-rule (2) of Rule 131 of the Income-tax Rules, 1962 ('the Rules'), the Director General of Income Tax (Systems), with the approval of the Board, hereby specifies that the following Forms that shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131:

Form	Description
Form 42	Appeal against refusal to recognise or withdrawal of recognition from a provident fund
Form 43	Appeal against refusal to approve or withdrawal of approval from a superannuation fund
Form 44	Appeal against refusal to approve or withdrawal of approval from a gratuity fund

2. This Notification shall come into effect from 22.11.2024.



# CIRCULARS

## INDIRECT TAX

### Customs

#### Circular No. 24/2024-Customs

F.No. 524/10/2024-STO(TU)

North Block, New Delhi Dated: 20.11.2024

**Subject: Mandatory additional qualifiers in import declarations in respect of coking/ non- coking coal w.e.f 15.12.2024 – reg.**

Madam/Sir,

Reference is invited to the Circular No.55/2020-Customs dated 17.12.2020 wherein, importers were advised to voluntarily declare the complete description of imported goods and certain additional qualifiers for imported items such as scientific names, IUPAC names, brand name, etc. as applicable to reduce queries and improve the efficiency of assessment.

It is noted that information provided during the import in case of coking/ non coking coal falling under 2701 is inadequate and also for required certifications from technical agencies for assessment, etc. thus, adversely impacting cargo clearance time. It is also felt insufficient for devising policies on import.

On reviewing the matter and based on the inputs from the Ministry of Coal, a draft consultation was published on 27.08.2024 proposing to seek additional information in import declarations as a subcategory based on different grades based on ash percentage in case of coking coal and based on gross calorific value (GCV) in case of non-coking coal, thereby offering effective avoidance of queries, enhancing efficiency in assessment and facilitation.

Accordingly, the additional qualifiers, as per Annexure, are being proposed in terms of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, which would need to be declared at the time of filing of import declarations

w.e.f 15.12.2024. Declaration of additional qualifiers would improve quality of assessment and intervention and increase facilitation.

Suitable Public Notice may kindly be issued for guidance of the trade. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

The entire notification can be read at <https://taxinformation.cbic.gov.in/view-pdf/1003248/ENG/Circulars>

#### Circular No. 26/2024-Customs

F.No. 524/20/2024-STO(TU)

North Block, New Delhi. Dated: 21.11.2024

**Subject: Clarifications on the applicability of concessional duty under IGCR Rules, 2022 in certain instances-reg.**

Madam/Sir,

Kind reference is invited to the Notification No. 74/2022-Customs (N.T.) dated 09.09.2022 and Circular No. 18/2022-Customs dated 10.09.2022 regarding Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 as amended.

2. Representations have been received in the Board regarding the issues related to the applicability of concessional duty under IGCR Rules, 2022 for MOOWR Scheme. The issues have been examined and the same are clarified as below:

#### Simultaneous availment of IGCR along with MOOWR:

3.1 Doubts have been raised on the availment of IGCR benefit for the warehoused goods taken for manufacturing simultaneously with the duty deferment under MOOWR and being cleared to DTA or removed to SEZ or to another MOOWR unit.

3.2 In this regard, this aspect has already been clarified under Question 17 of FAQs on MOOWR which is reproduced as follows:

*“The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, units operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the scheme allows.”*

3.3 It is once again re-iterated that, the MOOWR unit may avail IGCR exemption along with duty deferment under MOOWR simultaneously, provided that the importer undertakes to comply with the additional conditions prescribed in the Concessional Notification and IGCR Rules therein including time-limit etc., in addition to MOOWR stipulations for those goods while supplying goods from its premises.

#### **Applicability of IGCR benefit in certain cases:**

4.1 Doubt has been raised about the availability of IGCR benefit for the MOOWR unit involving in import certain goods specified in the notification for value-addition by way of manufacturing under MOOWR and further supplies the value-added goods to the final manufacturer of cellular mobile phones. This doubt has arisen especially in reference to the Notification No. 57/2017-Cus dated 30.06.2017, as amended wherein, at a few entries/serial numbers such as 5C to 5E, description of goods is mentioned including the expression “for use in manufacture of cellular mobile phones”.

4.2 It may be noted that, CBIC Instruction 16/2024-Customs dt. 25.06.2024 already clarifies the procedure to be adopted for import of goods by a unit in compliance with the provisions of MOOWR and transfer of resultant goods to another unit. Further, there is a clear documentation involving transfer and periodical account by the MOOWR units.

4.3 Accordingly, it is clarified that the expression “for use in manufacture of cellular mobile phones” is intended to convey that the component should be used in manufacturing process for cellular mobile phones. This does not mean that the components

should be imported by manufacturer of cellular mobile phones. Therefore, the goods being imported by the intermediate goods manufacturer who is MOOWR unit for further supplying after some manufacturing/ value addition to the final manufacturer of Cellular mobile phones are duly eligible for the benefit of concessional rate of duty under IGCR Rules, 2022, as long as all other conditions are met.

5. Suitable Public Notice may kindly be issued for guidance of the trade. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

## **Circular No. 25/2024-Customs**

**f.No. 450/28/2016-Cus-IV**

**Dated: 21st of November, 2024**

**Subject: Implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 - reg.**

Madam/Sir,

Reference is drawn to the Circular No. 04/2022-Customs dated 27.02.2022 on implementing automation in the IGCR Rules, 2017 which have been subsequently superseded by IGCRS Rules, 2022.

2. Representations have been received regarding difficulties in filing of the monthly returns on the IGCR portal.

3. Considering the request of stakeholders, Board has decided to permit the importers who are facing difficulties on electronic filing of their IGCR-3 monthly statement, may do so manually before jurisdictional officers till 31.01.2025. The monthly statement is to be filed online from the month of February 2025.

4. Further, an excel utility will be made available by DG Systems, CBIC by 15th December 2024 for filing IGCR-3 monthly statement. The importers are encouraged to make use of the same to file their IGCR3/IGCR 3A statements electronically for





present and past periods. The same may be completed latest by 31st January 2025.

5. Suitable Public Notice etc. may kindly be issued for guidance. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

## DIRECT TAX

### Circular No. 16 /2024

F.No. 197/ 639 /2024-ITA-I

New Delhi, 18th November, 2024

**Sub: Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Forms No. 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years - Reg.**

In supersession of all earlier Circulars/Instructions issued by the Central Board of Direct Taxes ('CBDT') from time to time to deal with the applications for condonation of delay in filing Form 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years, the CBDT in exercise of the powers conferred under section 119(2)(b) of the Income Tax Act ('the Act'), authorizes: -

- 1.1 the Pr. Commissioners of Income Tax ('Pr. CsIT')/ Commissioners of Income Tax ('CsIT') to admit and deal with applications for condonation of delay in filing Form No. 9A/10/10B/10BB for Assessment Year 2018- 19 and subsequent assessment years where there is a delay of upto 365 days.
- 1.2 the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/ Chief Commissioner of Income Tax ('CCsIT')/ Director Generals of Income Tax ('DGsIT') to admit and deal with applications for condonation of delay in filing Form No. 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years where there is a delay of more than 365 days.
2. The Pr. CCsIT/ CCsIT/ Pr. CsIT/ CsIT while entertaining such applications for condonation of delay in filing Form No. 9A/10/10B/10BB, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Forms before the expiry of the time allowed and the case is of genuine hardship on merits.

2.1 Further, in respect of Form No. 10, the Pr. CCsIT/ CCsIT/ Pr. CsIT/ CsIT as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

3. No application for condonation of delay in filing of Form No. 9A/10/10B/10BB shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority.
4. The delegation of powers, as per para 1.1 & 1.2 of this Circular shall cover all such applications for condonation of delay under section 119(2)(b) of the Act which are pending as on date of issue of this Circular.

### Circular No. 17 /2024

F.No.173/32/2022-ITA-I

New Delhi, the 18th November, 2024

**Sub: Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23-Reg.**

In exercise of the powers conferred under section 119(2)(b) of the Income-tax Act, 1961 ('the Act'), the Central Board of Direct Taxes ('CBDT') by Circular No. 6/2022 dated 17.03.2022 and Circular No. 19/2023 dated 23.10.2023 condoned the delay in filing of Form No. 10-IC as per Rule 21AE of the Income-tax Rules,

1962 ('the Rules') for Assessment Years 2020-21 and 2021-22 in cases where the conditions mentioned in the said Circulars are satisfied.

2. Representations have been received by the CBDT stating that Form No. 10-IC or Form No. 10-ID could not be filed for various assessment years on or before the due date or extended due date, as the case may be. It has been requested that the delay in filing of these Forms for respective assessment years may be condoned.
3. With a view to avoid genuine hardship to the assesseees in exercising the option, under section 115BAA of the Act read with Rule 21AE of the Rules or under section 115BAB of the Act read with Rule 21AF of the Rules, the CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, hereby authorizes: -
  - (a) the Pr. Commissioners of Income Tax ('Pr. CsIT')/ Commissioners of Income Tax ('CsIT') to admit and deal with the applications for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of upto 365 days.
  - (b) the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/ Chief Commissioners of Income Tax ('CCsIT')/ Directors General of Income Tax ('DsGIT') to admit and deal with the applications for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of more than 365 days.
4. The Pr. CCsIT/ CCsIT/ DsGIT/ Pr. CsIT/ CsIT while deciding such applications for condonation of delay in furnishing of Form No. 10-IC or Form No. 10-ID to exercise the option, under

section 115BAA of the Act read with Rule 21AE of the Rules or under section 115BAB of the Act read with Rule 21AF of the Rules, shall satisfy themselves that the applicant's case is a fit case for condonation under the existing provisions of the Act. The Pr. CCSIT/ CCsIT/ DsGIT/ Pr. CsIT/ CsIT shall ensure that the following conditions are satisfied, while deciding such applications:-

- (i) The return of income for relevant assessment year has been filed on or before the due date specified under section 139(1) of the Act;
  - (ii) The assessee has opted for taxation, u/s 115BAA of the Act in case condonation of delay is for Form No. 10-IC and u/s 115BAB of the Act in case condonation of delay is for Form No. 10-ID, in "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6; and
  - (iii) The assessee was prevented by reasonable cause from filing such Form before the expiry of the time allowed and the case is of genuine hardship on merits.
5. No application for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority.
  6. The delegation of powers, as per para 3 of this Circular shall cover all such applications for condonation of delay under section 119(2)(b) of the Act which are pending as on date of issue of this Circular.



# JUDGEMENT

## INDIRECT TAX

### Order dismissing appeal was set aside as signatory was authorized and required pre-deposit was made: HC

Facts of the case - Delphi World Money Ltd. v. Union of India - [2024] (Bombay)

The petitioner filed appeal before the GST Appellate Authority and the appeal was rejected on the ground that the mandatory pre-deposit wasn't made. It filed writ petition against the rejection of appeal and contended that it had made pre-deposit of 10% of disputed tax amount.

#### Decision of the case :

- The Honorable High Court noted that the petitioner had paid pre-deposit of ₹. 4,42,55,474 (10% of disputed tax amount) when filing appeal before the Appellate Authority. The system-generated provisional acknowledgement of appeal was generated automatically by GST portal once an assessee filed an appeal and this acknowledgement itself showed that requisite pre-deposit had been made. Further, a screenshot/extract from GSTN Portal reflected that signatory was duly authorised to sign appeal documents
- Therefore, the Court held that the impugned order was to be quashed and matter was to be remanded for de novo consideration since the petitioner had complied with necessary pre-deposit as required in Section 107(6) of CGST Act, 2017.

### Assessee to be allowed to file revocation application as registration was cancelled due to non-filing of returns: HC

Facts of the case - Kiran Enterprises GSTIN v. Commissioner, State Goods & Another - [2024] 168 taxmann.com 346 (Uttarakhand)

The petitioner was a proprietorship firm who ran a

business and its registration was cancelled by GST department for non-filing of the GST return for a continuous period of six months. It filed writ petition and contended that now it was ready to make the payment towards GST return for a period of six months as well as the penalty, if any, imposed by the department.

#### Decision of the case :

The Honorable High Court noted that the petitioner was ready to pay all balance tax, interest and late fee. The Court also noted that the petitioner shall be at liberty to move an application for revocation or cancellation of the order within two weeks. If such an application would be made, the Competent Authority shall consider petitioner's application and pass appropriate order as per law, within four weeks thereafter. Therefore, the Court disposed of the petition.

### Opportunity to be given to assessee to respond to SCN as he was unable to access GSTN portal: HC

Facts of the case - S. Sesappan v. Deputy State Tax Officer-2 - [2024] (Madras)

The petitioner was a work contractor and executed works contract for various Government authorities. The department issued notice to the petitioner for discrepancies between GSTR-1 and GSTR-3B which were treated as suppression of outward tax supply. The petitioner requested one final opportunity to put forth objections to tax proposal but the department did not accept request and passed the order. It filed writ petition against the order and submitted that it was unable to respond to the notices as it was not aware of the notices which were uploaded in the portal.

#### Decision of the case :

The Honorable High Court noted that the petitioner was unable to access the GSTIN portal and was unable to participate in the adjudication proceedings. It is a fact

that with the introduction of GST, there were several technical glitches in the portal and the assessee was also taking time to adapt to the e-mechanism. Therefore, the Court held that the impugned order was to be set aside and the matter was to be remanded to pass fresh order and the petitioner shall be granted one final opportunity to put forth their objections before Adjudicating Authority.

## **Opportunity to be given to assessee to respond to SCN as he was unable to access GSTN portal: HC**

**Facts of the case - S. Sesappan v. Deputy State Tax Officer-2 - [2024] (Madras)**

The petitioner was a work contractor and had executed works contract for various Government authorities. He was also registered under the GST Act and had filed monthly returns reporting inward and outward supplies in the prescribed GSTR-1 and GSTR-3B. On scrutinizing the returns, certain discrepancies between GSTR-1 and GSTR-3B were found, which were treated as suppression of outward tax supply. The petitioner was issued notice in Form ASMT-10 followed by notice in DRC-01A and DRC-01 and personal hearing intimations were also sent via e-mail.

The petitioner was unable to respond to the notices as he was not aware of the notices, which were uploaded in the portal. Thus, the petitioner was unable to access the GSTIN portal and unable to participate in the adjudication proceedings. Aggrieved by the order, the petitioner filed a writ petition contending that there were several technical glitches in the portal with the introduction of GST. The petitioner was also taking time to adapt to the e-mechanism, and it was only in view of the same that he was unable to respond to the above notices and the order of adjudication.

### **Decision of the case :**

The Madras High Court held that the petitioner was unable to access the GSTIN portal and, hence, could not participate in the adjudication proceedings. The petitioner was not adapted to the e-mechanism after the introduction of GST. Thus, one final opportunity was to be granted to the petitioner to put forth their objections before the Adjudicating Authority.

## **Date of fresh refund application after rectifying deficiencies can't be considered for purposes of determining period of limitation: HC**

**Facts of the case - Sali P. Mathai v. State Tax Officer - [2024] (Kerala)**

In the instant case, the petitioner filed an application for a refund on 05.04.2021 seeking a refund of an amount of ₹. 17,46,210/-. In response to that application, the petitioner was served with communication dated 19.04.2021, informing the petitioner regarding certain deficiencies in the application for a refund. The petitioner thereafter filed a fresh application for a refund on 30.09.2021.

The fresh application was admittedly beyond the time specified in Section 54 of the CGST/SGST Acts and was therefore rejected. The petitioner contended that the rejection of the application filed by the petitioner on 30.09.2021 as being time-barred with reference to the provisions contained in Section 54 of the CGST/SGST Acts cannot be sustained in law. It was submitted that Section 54 of the CGST/SGST Acts does not contemplate the filing of a second application. Further, it was submitted that the requirement in Rule 90(3) of the CGST Rules to file a fresh application for a refund on deficiencies being intimated is not in tune with the statutory provisions.

### **Decision of the case :**

The High Court observed that Rule 90(3) of the CGST Rules requires the filing of a fresh refund application after rectification of deficiencies pointed out in respect of the first application. However, the said sub-rule does not contemplate that the date of the fresh application has to be considered for the purposes of determining the period of limitation for filing an application for refund under Section 54(1) of the CGST/SGST Acts. The High Court held that the rejection of the application for refund filed by the petitioner on the ground that the second application filed by the petitioner was beyond the time specified in Section 54(1) of the CGST/SGST Acts cannot be sustained in law. Accordingly, the writ petition was allowed.



## DIRECT TAX

### Penalty order passed in Co.'s old name is valid and a curable defect: HC

Facts of the case - Commissioner of Income-tax (TDS)-1 vs. ADMA Solutions (P.) Ltd. - [2024] (Delhi)

The assessee company was engaged in rendering call centre services. A survey operation under section 133A was conducted by the TDS Wing of the Income-tax Department at the business premises of the assessee to verify whether TDS had been correctly deducted under the various heads of TDS provisions and its timely deposit into Government account in the years under consideration, wherein, certain non-compliances of TDS provisions were detected. Meanwhile, the assessee changed its name from 'Infovision' to 'Adma', and the registered office was also shifted to a different place.

The Assessing Officer (AO) passed an order under section 201(1) read with section 201(1A), holding the assessee in default for not paying the relevant TDS and penalty proceedings were initiated under section 272A.

The penalty order was passed in the company's old name, and accordingly, the assessee contended that it was passed in the name of a non-existent entity and filed an appeal to CIT(A).

CIT(A) allowed the assessee's appeal, which the Tribunal upheld. Aggrieved by the order, an appeal was filed before the Delhi High Court.

#### Decision of the case :

- The High Court held that it was undisputed that the assessee's name was changed from 'Infovision' to 'Adma'. Accordingly, CIT(A) took the view that the order of penalty was passed in the name of an entity that had ceased to exist much prior to the initiation of penalty proceedings.
- However, this finding was incorrect as only the company's name had changed, not its constitution, and therefore, the entity remained the same. The show cause notice issued and the penalty order passed in the company's old name were not such a defect that could not be cured. Accordingly, the AO's appeal was allowed.

### No tax on surplus of company formed by members of industrial association to reduce pollution: HC

Facts of the case - Commissioner of Income-tax vs. Vapi Waste and Effluent Management Co Ltd. - [2024] (Gujarat)

The assessee was a Public Limited Company incorporated under the provisions of the Companies Act, 1956. The company was formed by the members of the Vapi Industrial Association, which took over the Common Effluent Treatment Plant (CEFT) from GIDC for disposal of the Solid Hazardous Waste Disposal under the Common Solid Waste Project (CSWP).

The assessee filed its return of income, claiming the income to be exempt from tax on the grounds of mutuality. However, the Assessing Officer (AO) rejected the assessee's claim and made additions to the assessee's income.

The CIT(A) upheld the order of AO. Later, ITAT reversed the order of AO and held that the income of assessee was exempt from tax. The matter then reached the Gujarat High Court.

#### Decision of the case :

- The High Court held that the assessee-company received contributions from its members for the services to be provided for the treatment of the effluent. The company was formed pursuant to the directions/suggestions made by the Court to reduce pollution, which was in the public interest. Therefore, the form in which the company was incorporated was irrelevant.
- In such circumstances, the act of members not becoming voluntary, the composition of the Board of Directors consisting of outsiders than the members being the government nominees, members having no right over the property of the company, object of a company is for profit-making and by entering into the partnership with outsiders for sharing profit which is only in the objects of the company but not the fact as found by the authorities, etc., would fall



outside the scope of destroying the basic ingredients of the principle of mutuality.

- The objects of the company also made it clear that the surplus, if any, would not be paid to its members, and in the case of dissolution of the company, only ₹. 100 would be paid to its members. Thus, the findings arrived at by the CIT(A) were contrary to the settled legal position. Therefore, the assessee was entitled to claim the income to be exempt from tax on the ground of mutuality.

## **Sec. 69A additions justified if cash found during search wasn't traced to wife & mother's bank a/c as claimed by assessee**

Facts of the case - Anuj Sood vs. PCIT (Central-1) - [2024] (Delhi)

The assessee filed the return of income for the relevant assessment year. Subsequently, a search operation was conducted on the assessee's premises. Cash was found and seized from the assessee's premises during the search operation. The Assessing Officer (AO) issued a notice to the assessee to explain the source of such cash.

In response, the assessee explained the source of the cash. It was contended that a part of the cash belonged to the assessee, and the remaining amount belonged to his mother and wife. The assessee also furnished the bank statements of his mother and wife to substantiate the claim.

However, the AO was not satisfied with the explanation and made additions to the assessee's income. The matter reached the Delhi High Court.

### **Decision of the case :**

- The High Court held that the assessee contended that the source of cash was duly established by the material placed on record. However, the assessee had sought time to file an additional affidavit to reflect that his mother and his wife had disclosed the cash of ₹. 19,36,000 and ₹. 15,84,000 in their returns, and withdrawals from the bank supported the same.
- The additional affidavit filed by the assessee encloses his mother's bank statements for the period from the

Financial Year (FY) 2012-13 to FY 2017-2018. The assessee has sought to adopt a simplistic approach by simply totalling cash deposits and cash withdrawals. However, if the initial deposit itself is in cash, the source of the same would require to be explained.

- More importantly, there was no explanation as to why the assessee's mother retained a high balance of cash in hand when household drawings were only ₹. 2,40,000 for each year during the first two financial years (FY) 2012-13 and 2013-14.
- It is apparent that the assessee's explanation for the cash in hand was far-fetched. There was no credible explanation as to the cash found on the date of the search. According to the assessee, part of the cash found on the premises during the search operation was withdrawn five to six years earlier. It is also relevant to note that the cash found on the premises cannot be traced to the bank accounts. The assessee has to travel six years prior to the date of the search for explaining cash withdrawal without any credible explanation for the same
- Therefore, the assessee failed to prove the cash found on the premises during the search operation. Thus, the additions made by the AO were confirmed.

## **Vocational education though lacked systematic education is eligible for sec. 12A registration: HC**

Facts of the case - Commissioner of Income-tax (Exemptions) vs. Unique Educational Society - [2024] 168 taxmann.com 448 (Punjab & Haryana)

The assessee-society was running a private Industrial Training Institute imparting vocational training to the students. It applied for registration under Sections 12A and 12AA. The CIT(E) rejected the application by holding that vocational training did not constitute "education" as it lacked a systematic education.

On appeal, the Tribunal found that the institute was affiliated with the National Council for Vocational Training (NCVT) and State Council for Vocational Training (SCVT), fulfilling national education standards. It held that vocational education was crucial for individual development and employability and





was a recognized form of systematic education by government bodies that duly fell within the purview and scope of the term “Education” as used in section 2(15). Therefore, it directed CIT(E) to grant registration under sections 12A and 12AA.

Aggrieved by the order, an appeal was filed to the Punjab & Haryana High Court.

### Decision of the case :

- The High Court held that vocational education is a form of education necessary for the development of an individual for the purpose of earning his living. Vocational training has now been recognised to be as important as any other field of education. For this reason, the National Council for Vocational Training has been established to streamline and lay down a systematic pattern of providing education. As the institute is duly approved by the NCVT, it cannot be said that the institute is not imparting education.
- Accordingly, the High Court held that no interference in the order of the Tribunal was warranted. The appeal was thus found to be without merits and accordingly dismissed.

## Prosecution can be initiated under Black Money Act even before completion of assessment: HC

Facts of the case - Sanjay Bhandari vs. Income-tax Office - [2024] (Delhi)

A search and seizure operation was conducted on the assessee’s premises. During the search and seizure operation, incriminating documentary evidence and information were discovered, establishing that the assessee held undisclosed foreign bank accounts and properties. Notices under section 10(1) of the Black Money Act, 2015, were issued to the assessee, to which he responded.

Subsequently, the Additional Commissioner of Income Tax (Central), New Delhi, had filed the complaint against the assessee for an offence under section 51(1) of the Black Money Act, and the assessee was summoned for the offence.

The assessee contended that the prosecution was initiated

without completing the assessment proceedings. There was no finding by the department that the assessee evaded any tax. Furthermore, there was no evidence showing that the alleged foreign assets belonged to him. Aggrieved by the complaint, the assessee filed a writ petition to the Delhi High Court.

### Decision of the case :

- The Delhi High Court held that the bare perusal of Section 48 of the Black Money Act makes it clear that the offences and prosecution, which fall in Chapter V of the Black Money Act, are independent of any order made under this Act. It is relevant to note that the assessment under the Black Money Act is being made under Section 10, which falls in Chapter III. Therefore, the submission of the assessee does not hold any force in the eyes of the law.
- The initiation of the prosecution is not dependent on the completion of the assessment. If the conditions as required under Section 51 of the Black Money Act are fulfilled, the prosecution can be initiated irrespective of the completion of the assessment.
- Section 51 of the Black Money Act would come into play if, even before filing a return of income, the person is found to have done any of the acts as prescribed in Section 51(3) of the Black Money Act, 2015. Apparently, the prosecution under this provision cannot depend on the assessment. The offence, if proven, stands completed as soon as the conditions as required under Section 51(3) of the Black Money Act, 2015 are fulfilled, irrespective of the return of income.
- At this stage, the complainant is not required to bring the material on record that could prove the guilt of the accused or even be sufficient for framing the charge. This is a very initial stage where the Magistrate has to form an opinion that there are sufficient grounds for issuing the process. Such an opinion is to be formed based on the entire material on record. The objections of the petitioner regarding the assessment are not relevant. In regard to the evidence to show that the petitioner owned foreign assets, the complainant shall be obliged to produce the same at an appropriate time.
- Accordingly, the petition was dismissed.

# TAX CALENDAR

## INDIRECT TAX

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

## DIRECT TAX

Due Date	Returns
Dec 7th, 2024	Due date for deposit of Tax deducted/collected for the month of November, 2024. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
Dec 15th, 2024	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of November, 2024 has been paid without the production of a challan
	Third instalment of advance tax for the assessment year 2025-26
	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of November, 2024
	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of October, 2024



# E-PUBLICATIONS

## Of

### TAX RESEARCH DEPARTMENT

**Guide Book for GST Professionals**

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

**Impact of GST on Real Estate**

**Insight into Customs-Procedure & Practice**

**Input Tax Credit and In depth Discussion**

**Taxation on Co-operative Sector**

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

**Guidance Note on Anti Profiteering**

**Handbook on GST on Service Sector**

**Handbook on Works Contract under GST**

**Handbook on Impact of GST on MSME Sector**

**Assessment under the Income Tax Law**

**Impact on GST on Education Sector**

**International Taxation and Transfer Pricing**

**Handbook on E-Way Bill**

**Handbook on Filing of Returns**

**Handbook on Special Economic Zone and Export Oriented Units**

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# TAXATION COMMITTEES - PLAN OF ACTION

## Proposed Action Plan:

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

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