

December, 2024

TAX Bulletin

Volume - 174

17.12.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

Ph: 091-11-24666100

VISION STATEMENT

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

MISSION STATEMENT

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

Objectives of Taxation Committees:

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

December, 2024

TAX Bulletin

Volume - 174

17.12.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

Ph: 091-11-24666100



The Institute of Cost Accountants of India

Statutory Body under an Act of Parliament

www.icmai.in

Certificate Courses Offered by the Tax Research Department

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

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

Modalities

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

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

Eligibility Criteria for Admission

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

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

Course Details

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

Courses for Colleges & Universities by the Tax Research Department

Modalities

Eligibility

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

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

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

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

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



Chairman's Message



CMA Rajendra Singh Bhati
Chairman Direct Taxation Committee

It would be an honor for the Institute to conduct the “WORKSHOP ON INVENTORY VALUATION” at Office of the Principal Chief Commissioner Income Tax, Odisha on the 19th of December, 2024. As confirmed by the office of PCCIT, Bhubaneswar, Odisha this day long webinar would be forum wherein the Tax Officials would be upskilling their knowledge in this arena which would help them perform more efficiently in their day to day work. We at the Institute thank the good office for this opportunity and wish the best to them in their learning process.

On the part of the department, classes for the Taxation Courses has commenced on the 14th of this month with participation of students across corporates in this ensuing batch. Wishing the best to them in this learning activity.

An important MoU has been signed between CHRIST (Deemed to be University) college and the Institute for conduct of crash course on Income Tax Overview. A MOU signing Ceremony was also organised at the College premises to observe this ceremony in the presence of eminent dignitaries on the 17th of December, 2024.

An important webinar has also been conducted on 09.12.2024 on the topic, “Taxability of compensation received by an allottee of a house from Builder under Income Tax Act, 1961 (Ref: Order of Consumer Forum or RERA)” by CMA Niranjan Swain. The session started with understanding the provisions of RERA and Consumer Protection Act in this regard. The importance of Builder-buyer agreement for Home buyers, treatment of compensation received and its calculation, taxability of the Interest received and different cases and decisions on this were discussed. The session ended with attending the questions raised by the participants. The session has been a successful one.

The publication of Tax Bulletin is done regularly.

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

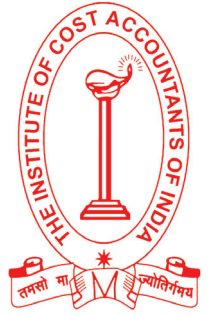
CMA Rajendra Singh Bhati
Chairman – Direct Taxation Committee
The Institute of Cost Accountants of India
17.12.2024



Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee



The Tax Research Department has also put in serious efforts to promulgate the knowledge of Taxation in various genre of learners and the latest being corporates. In this regard the department has organized a 2-day Training Program for the Executives of **Steel Authority of India Limited** at their Management Training Institute, Ranchi. There have been 26 participants in the said workshop all of senior cadre. The workshop started with simple understanding of GST through a discussion on Overview of GST Laws. The other areas which were addressed were: (i) ITC Management (ii) ITC on civil structures (iii) GST in Works Contracts and AMR (Addition, Modification, and Reconstruction) and (iv) Overview of Assessment, Appeal, Adjudication, demand, and recovery under GST Laws. How to handle litigations. CMA Shiba Prasad Padhi and CMA Niranjana Swain were the esteemed faculties for the sessions. The program has been highly appreciated by the participants and also the management authorities at SAIL. The corporate intends to undertake more such workshops with ICAI for the knowledge updating of their employees at different levels across India.

The classes for the Taxation Courses has also commenced from 14th of December, 2024 and like all other terms this time also there has been corporate admissions from organisations like Jute Corporation and Reserve Bank Information Technology Private Limited. We wish them a happy learning Journey.

On 17.12.2024 an MoU has been signed in the presence of dignitaries between CHRIST (Deemed to be University) college and the Institute for conduct of GST Course for college and university students. A MOU signing Ceremony was also organised at the College premises to observe this ceremony.

Exam for GST Course for College and University students have been conducted at Government Ramnarayan Chellaram College of Commerce & Management, Bengaluru.

An important webinar was conducted on 13.12.2024 on the topic, 'Recent Judicial Pronouncements in GST Transactions'. The faculty for the session was CMA Bhogavalli Mallikarjun Gupta, Cost Accountant. The webinar was participated by huge number of members and the session was followed by a Q&A Session.

Tax Bulletins are published regularly and all other activities are being carried on seamlessly by the department. Quiz is also being conducted every Friday for the members.

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

17.12.2024

TAXATION COMMITTEES 2024 - 2025

Indirect Taxation Committee

Permanent Invitees

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

Chairman

1. CMA Dr. Ashish P. Thatte

Members

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

Secretary

CMA Kushal Sengupta, Director

Direct Taxation Committee

Permanent Invitees

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

Chairman

1. CMA Rajendra Singh Bhati

Members

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

Secretary

CMA Kushal Sengupta, Director

EDITORIAL BOARD

CMA B M Gupta
CMA Rahul Renavirkar

CMA Navneet Jain
CMA Mrityunjay Acharjee

ACKNOWLEDGEMENTS

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

CMA Navneet Kumar Jain
CMA Anil Sharma
CMA Arindam Goswami
CMA Manmohan Daga
CMA Pounraj Ganesan

TEAM TAX RESEARCH DEPARTMENT

CMA Kushal Sengupta - Director - Tax Research
CMA Tinku Ghosh Das - Joint Director - Tax Research
CMA Priyanka Roy - Deputy Director - Tax Research
Ms. Mukulika 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 / trd.dd2@icmai.in

PAGE NO.

ARTICLES

01	Professional Readiness for Cost Accountants to Appear Before the GST Tribunal - CMA Pounraj Ganesan	01
02	Navigating GST Challenges: Lessons from the L&T PES JV Inter-State Tax Dispute - CMA Bhogavalli Mallikarjuna Gupta	04

NOTIFICATIONS

Indirect Tax	09
--------------	----

CIRCULARS

Indirect Tax	15
--------------	----

JUDGEMENT

Indirect Tax	16
Direct Tax	18

TAX CALENDAR

Indirect Tax	21
Direct Tax	21

PUBLICATIONS

E-Publications of Tax Research Department	22
---	----



Professional Readiness for Cost Accountants to Appear Before the GST Tribunal



CMA Pounraj Ganesan

Cost Accountant

1. Understanding the Structure and Functioning of the GST Tribunal

The GST Appellate Tribunal, established under Section 109 of the CGST Act, 2017, is a quasi-judicial body that provides an essential platform for resolving disputes under GST. It comprises a National Bench, various State Benches, and Area Benches, each with specific jurisdictions. Cost Accountants must understand the hierarchy, roles, and responsibilities of these benches to determine the appropriate forum for filing an appeal. Additionally, they should be thoroughly familiar with Sections 109 and 110 of the CGST Act, which govern the composition, qualifications of members, and powers of the tribunal. Knowledge of appealable orders under Sections such as 73 (determination of tax not paid), 74 (tax evasion), and 129 (provisional attachment) is crucial for identifying cases eligible for tribunal resolution.

2. Building a Strong Foundation in GST Law

A deep and updated understanding of GST laws is indispensable for Cost Accountants aspiring to represent clients effectively. This includes a comprehensive grasp of the CGST, SGST, IGST, and UTGST Acts. It is equally important to stay abreast of notifications, circulars, and amendments, as these provide clarity on ambiguities and operational guidelines. For instance, amendments relating to Input Tax Credit (ITC) restrictions or e-invoicing norms must be fully understood. Furthermore, familiarity with key judicial pronouncements by High Courts and the Supreme Court is essential, as

these rulings often set binding precedents that can strengthen arguments in tribunal cases.

3. Mastering Procedural Requirements

Procedural compliance is fundamental for smooth tribunal proceedings. Cost Accountants must be proficient in filing appeals using Form GST APL-05 and ensuring adherence to timelines specified under Section 112 of the CGST Act. Awareness of pre-deposit requirements—such as paying 10% of the additional disputed tax amount as a prerequisite for filing an appeal—is critical to avoid delays or rejection of the appeal. Understanding the process of seeking condonation of delay, if applicable, can also prove beneficial in cases where statutory deadlines are missed.

4. Developing Analytical and Drafting Skills

Effective representation requires the ability to critically analyze case laws, rules, and legal provisions. Cost Accountants must correlate these elements with the specifics of the case, identifying strengths and addressing weaknesses. Drafting skills are equally important; appeal submissions, rejoinders, and written arguments must be clear, concise, and persuasive. A well-drafted submission that logically organizes facts, issues, legal provisions, and precedents can significantly influence the tribunal's decision-making process.

5. Managing Documentation Effectively

Documentation is the backbone of any tribunal

case. Cost Accountants must ensure that all relevant records—such as adjudication orders, GST returns, invoices, contracts, audit reports, and correspondence with the department—are properly compiled and organized. Cross-referencing these documents with applicable legal provisions strengthens the case during tribunal hearings. Additionally, maintaining a checklist of required documents ensures completeness and prevents last-minute issues.

6. Enhancing Advocacy Skills

Strong advocacy skills are critical for effective tribunal representation. Cost Accountants must present arguments logically, addressing both factual and legal aspects comprehensively. Confidence in responding to questions posed by tribunal members or opposing counsel is key. Techniques such as emphasizing critical facts, highlighting favorable precedents, and rebutting opposing arguments respectfully can enhance persuasiveness. Maintaining decorum and professionalism throughout proceedings reflects positively on the representative.

7. Understanding Related Laws and Cross-Linkages

A working knowledge of related laws, such as the Income Tax Act, Customs Act, Companies Act, and the Foreign Exchange Management Act (FEMA), can provide valuable insights for addressing complex GST disputes. For example, valuation disputes often involve Rule 30 (cost-based valuation) and Rule 31 (residual method) of the CGST Rules. An understanding of these rules, combined with knowledge of accounting standards and principles, can help build a robust case when addressing cross-linkages with other legal frameworks.

8. Being Technologically Prepared

In the digital era, technological proficiency is indispensable. Cost Accountants must be adept at using the GST portal for filing appeals, retrieving orders, and uploading supporting documents. They should also be well-prepared for virtual hearings,

which are increasingly common. This includes ensuring a stable internet connection, familiarity with video conferencing tools, and effective use of digital formats for presenting arguments and evidence.

9. Investing in Continuous Learning

GST laws and tribunal practices evolve constantly, necessitating a commitment to continuous learning. Regular participation in workshops, seminars, and Continuing Professional Development (CPD) programs helps Cost Accountants stay updated. Engaging in mock hearings provides practical exposure, while networking with peers can facilitate the exchange of insights and best practices. Such efforts build confidence and enhance readiness for real-world cases.

10. Upholding Ethical Standards and Professionalism

Adhering to ethical standards is non-negotiable for Cost Accountants. Representing clients before the tribunal requires compliance with the ICAI's Code of Ethics, which emphasizes integrity, confidentiality, and transparency. Maintaining these principles fosters trust and credibility, both with clients and the tribunal. It is also essential to disclose any conflicts of interest and avoid any actions that could undermine the integrity of the proceedings.

■ Appeal Filing Timeline

- **By the Assessee:**
- The appeal must be filed within **3 months** from the date of communication of the order against which the appeal is being made.
- **By the Department:**
- The department can file an appeal within **6 months** from the date of communication of the order.

■ Condonation of Delay

Authority to Condone Delay:

The tribunal may condone a delay in filing the appeal if a valid and reasonable cause for the delay is demonstrated.



Maximum Additional Period:

The tribunal can condone a delay of up to **3 months** beyond the initial 3-month filing period for appeals by the assessee.

Example: If the filing deadline is missed, the appellant must submit a written request for condonation of delay with justifiable reasons (e.g., medical emergency, technical issues).

Limitation on Condonation:

The tribunal cannot condone a delay beyond the 3-month extended period, making it essential to act promptly.

Documentary Requirements for GST Tribunal Representation:

- Form GST APL-05 for filing appeals.
- Challan for pre-deposit payments (Additional) (10% of the disputed amount).
- Proof of payment of the disputed tax, interest, or penalty.
- Adjudication order or original order being appealed.
- Copies of GST returns, invoices, and payment receipts.
- Relevant contracts or agreements tied to the dispute.
- Chronology of events leading to the dispute.
- Grounds of appeal and legal arguments.
- Copies of relevant judicial precedents and case laws.
- Proof of compliance with statutory requirements, such as timelines.

- Evidence supporting condonation of delay, if applicable.
- Correspondence with GST authorities (notices, replies, etc.).
- Affidavits or declarations, if required.
- Digital copies of all documents for online submission.
- Proper indexing and cross-referencing of documents for virtual hearings.

Conclusion

By focusing on these areas, Cost Accountants can effectively prepare themselves for tribunal representation, ensuring not only a strong case but also upholding the highest standards of professionalism and ethics. This preparation not only enhances their individual competence but also strengthens the reputation of the profession in the realm of GST dispute resolution.

For the above points, it is essential to include detailed references to forms and challans, such as Form GST APL-05 for filing appeals and challans for pre-deposit payments required under Section 112 of the CGST Act. Additionally, any supplementary deposits mandated by tribunal rules should be accounted for. The appeal should also comprehensively present the facts of the case, including a chronological summary of events, the grounds for appeal, and legal arguments based on relevant provisions, rules, and case laws. This detailed approach ensures a well-prepared and structured representation before the GST Tribunal.

Navigating GST Challenges: Lessons from the L&T PES JV Inter-State Tax Dispute



CMA Bhogavalli Mallikarjuna Gupta

Co-opted Member Indirect Taxation Committee

Larsen & Toubro Ltd. (L&T), in partnership with PES Engineers Pvt. Ltd., established a joint venture (JV) named L&T PES JV to undertake the Medigadda Irrigation Barrage construction under the Kaleshwaram Irrigation Project in the state of Telangana. The project is entirely funded entirely by the Telangana Government, the actual construction work extended into the state of Maharashtra, resulting disputes over the allocation of GST liabilities.

The Dispute

At the heart of the case are several GST-related challenges:

1. Place of Supply and Taxation

The project is classified as a “works contract” under Section 2(119) of the Central Goods and Services Tax (CGST) Act, which is subject to GST based on the location of service delivery. As per Section 12(3) of the Integrated Goods and Services Tax (IGST) Act, services involving immovable property spanning multiple states require proportional tax allocation based on the value of services provided in each state. This provision is particularly relevant here, as the project involves construction across the states of Telangana and Maharashtra.

Relevant Sections:

Works Contract – Section 2(119) of CGST Act 2017

“Works contract means a contract for building,

construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property, wherein transfer of property in goods (whether as goods or in some other form), is involved in the execution of such contract.”

Place of supply of services where location of supplier and recipient are in India – Section 12(3) of IGST Act 2017

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

Explanation:

Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

As per the explanation given in Section 12(3), when an immovable property is located in more than one State, then the place of supply of service shall be



determined by the service supplied in each State in proportionate to value of services determined in terms of contract.

2. GST Deductions

The Telangana Government has deducted GST-TDS on the full project value, including the portion of work executed in the state of Maharashtra. The GST-TDS was remitted exclusively to Telangana, ignoring the proportional share due to Maharashtra.

3. Refund Claim

The JV sought a refund for the excess GST-TDS credited to Telangana for work done in the state of Maharashtra, on the grounds that they had discharged Maharashtra's GST liability independently. Telangana's state tax authorities, however, rejected this claim.

4. Rejection of Refund

The refund request was rejected, with Telangana asserting that it funded the entire project and managed it exclusively. They also noted that PES Engineers lacked GST registration in Maharashtra, complicating tax allocation further.

Arguments by L&T PES JV

1. Compliance with GST Laws:

- The JV partners contended that under Section 12(3), the GST liabilities must be apportioned based on the actual work executed in each state.
- They argued that Maharashtra's GST liabilities had already been paid under its GST registration.

2. Separate Billing and Payments:

- The JV emphasized that separate invoices were raised for work in each state, and GST liabilities for the state of Maharashtra were independently discharged.
- Consequently, the excess GST credited to Telangana should either be refunded or transferred to Maharashtra.

3. Responsibility of Telangana:

- Telangana authorities should have ensured that deductions were aligned with the actual work completed in each state.

4. Financial Impact:

- The JV highlighted that excess GST lying in Telangana's electronic cash ledger blocked a significant amount of their working capital.

Arguments by Telangana State

1. Ownership of the Project:

- Telangana argued that since it has funded and managed the project, all GST liabilities should fall under its jurisdiction.

2. Registration Non-Compliance:

- PES Engineers, a partner in the JV, was not registered for GST in the Maharashtra, raising questions about how tax liabilities were handled there.

3. Place of Supply:

- Citing Section 12(2)(a) of the IGST Act, Telangana argued that the place of supply for services to a registered recipient is the recipient's location, which in this case was Telangana.

4. Procedural Issues:

- Telangana Government has submitted that the JV only raised objections after project completion, failing to address these concerns during execution.

Court's Observations

1. Applicability of Section 12(3)

The court has observed that Section 12(3) of the IGST Act 2017 applies to immovable property spanning multiple states and mandates proportional tax allocation.

2. Improper Deductions:

The Telangana Government's deduction of GST for

Maharashtra's portion violated the principles of proportional tax allocation.

3. Inadequate Documentation:

The JV did not furnish sufficient evidence to prove that GST liabilities for Maharashtra were independently discharged.

4. Responsibility of Allocation:

While Telangana's deductions were improper, the JV bore some responsibility for failing to resolve the issue during the project.

Court's Decision

1. Submission of Evidence:

The court directed the JV to provide evidence of GST payments for Maharashtra's work, including documentation of the work split between states.

2. Reconsideration of Refund:

Telangana authorities were instructed to review the refund claim upon receiving the necessary documentation.

3. Clarification on Tax Allocation:

The court reiterated that the place of supply must align with the proportional work in each state under Section 12(3) of IGST Act 2017.

4. Future Compliance

All parties were urged to adhere to GST rules, including proportional tax allocation and mandatory registration under Section 24(vi) of the CGST Act for deductors in relevant states.

Key Takeaways for GST Compliance in Multi-State Projects: A Detailed Perspective

The L&T PES JV case offers significant learnings for businesses managing multi-state projects, especially in the infrastructure sector in navigating GST compliance and ensuring smooth financial operations. Below are

some of the takeaways that can serve as a guide for future projects:

1. Adherence to GST Laws

- **Understanding the Provisions of Section 12(3):** Businesses must understand and apply the provisions of Section 12(3) of the IGST Act, which governs the place of supply for services related to immovable property spread across multiple states. This provision ensures that GST is distributed based on the actual value of services rendered in each state.
- **Works Contract as a Special Category:** Construction and maintenance of infrastructure projects, hospitality industry, etc., fall under the category of "works contract" defined in Section 2(119) of the CGST Act. Since these are related to immovable property, the place of supply is determined by the physical location of the property, not the funding source or the recipient's registered location.
- **Inter-State and Intra-State Transactions:** Distinguishing between inter-state and intra-state supplies is crucial for levy and collection of taxes in GST. For services executed in multiple states, inter-state transactions involve Integrated GST (IGST), while intra-state transactions require Central GST (CGST) and State GST (SGST).

Practical Tip: Businesses should ensure continuous coordination between their tax/finance teams, with GST authorities, and project management teams to ensure compliance with these provisions.

2. Importance of Documentation

- **Comprehensive Record-Keeping:** Maintain detailed and accurate records for each projected based on the provisions of GST:
 - ▶ Invoices raised for services rendered in each state.
 - ▶ Proportional work executed and the corresponding tax payments for each state.
 - ▶ Input tax credit (ITC) claims and deductions made by the contractee, if any.



- **Audit Trail:** An audit trail of transactions ensures transparency and strengthens the business's position during tax assessments or litigation.
- **State-Specific Tax Filing:** Businesses must file separate GST returns for each state where the work is executed, using the correct GSTIN.

In the L&T PES JV case, lack of clear documentation about the GST payments made for Maharashtra led to the rejection of the refund claim. Businesses must proactively maintain these records to avoid similar outcomes.

3. Timely Resolution of Issues

- **Addressing Concerns Early:** Disputes or irregularities in tax deductions should be raised during the project execution phase rather than after completion. This helps in avoiding unnecessary delays in refunds or adjustments or payments.
- **Communication with Tax Authorities:** Engage with the State/Central GST authorities to clarify deductions, apportionment, or procedural compliance issues at the earliest.
- **Contractual Clarity:** Contracts with government agencies or private entities should clearly outline the work to be executed in each state for contracts spanning multiple states and include clauses about tax deductions and remittance procedures.

In this case, the JV raised objections only after the completion of the project, which complicated the resolution and refund claim rejection. Timely action could have prevented the blockage of funds in Telangana's electronic cash ledger of the applicant.

4. Proper Registration

- **Mandatory Registration for Deductors:** Under Section 24(vi) of the CGST Act, taxpayers responsible for deducting TDS (Tax Deducted at Source) under Section 51 must register in all states where the deduction applies. Non-compliance can lead to improper tax remittance, as seen in this case.
- **Separate GSTIN for Each State:** As GST is framed on the principle of destination based taxation, businesses and their partners must obtain

GST registrations in all states where they operate to correctly report and pay GST. This is especially crucial for JVs where the projects span across multiple states.

- **Registration of Sub-Contractors:** Sub-contractors or partners in a JV must also register under GST in the relevant states to avoid complications in tax compliance and for availing and utilizing the input tax credit.

PES Engineers not having a GST registration in the state of Maharashtra became a critical point of contention. A proper registration could have ensured smooth allocation of GST liabilities and supported the refund claims.

5. Proportional Tax Allocation

- **Splitting the Tax Liability:** For multi-state projects, tax liabilities must be proportionally allocated based on the work executed in each state. This allocation must be documented in the contract for the value of services provided in each state.
- **Avoiding Over-Deduction:** The deducting authority (e.g., the government or project sponsor) must deduct and remit GST proportionally across states. Over-deduction in one state can lead to cash flow challenges, as seen in the L&T PES JV case.
- **Coordinating with Recipients:** Businesses must engage in active communication with the recipient to ensure correct TDS remittance. Any errors in TDS allocation can lead to blocked refunds or litigation.

Telangana's authorities deducted GST for the entire project value, despite a portion of work being executed in Maharashtra. Businesses should work proactively with recipients to prevent such errors.

6. Financial Planning for GST Refunds

- **Impact of Delayed Refunds:** Excess GST credited to one state's ledger can block the working capital, impacting cash flow. Businesses must plan for such scenarios and include safeguards in their financial strategy.
- **Leveraging Legal Remedies:** In cases of refund

rejections, businesses should leverage alternative remedies provided in the Act and submit necessary documentation to strengthen their claims.

- **Avoiding Overreliance on Electronic Ledgers:** Relying solely on one state's GST ledger for multi-state projects can create bottlenecks. Proportional allocation and timely utilization of input tax credits are critical.

7. Building GST Expertise

- **Internal Expertise:** Businesses must invest in training their taxation/finance teams on GST changes and compliance, particularly for multi-state operations.
- **Engaging Experts:** Consulting with legal and tax professionals who specialize in GST litigation can help in avoiding and navigating complex disputes.
- **Staying Updated:** GST in India is evolving, with frequent updates and clarifications. Businesses must stay informed about these changes to ensure compliance.

In the L&T PES JV case, a deeper understanding of Section 12(3) and proportional tax allocation could have preempted the litigation.

The L&T PES JV case serves as a critical reminder of the complexities involved in GST compliance for projects spanning multiple states. By adhering to the provisions of the GST Act, contracts must be drafted keeping in view of the GST provisions, maintaining detailed records, having proper registrations, and addressing issues proactively, businesses can avoid litigation and financial strain. As India's GST regime continues to evolve, staying vigilant and informed is key to seamless compliance.

Disclaimer

The opinions and views presented in this article are solely those of the author(s) and do not necessarily represent the official stance, policy, or position of any organization, institution, employer, or entity. The content is provided for informational purposes only and should not be considered as legal, financial, or professional advice. Readers are advised to consult with professionals for guidance relevant to their specific circumstances. The author(s) and publisher accept no responsibility for any consequences resulting from the use of the information contained herein. All content is provided "as is," and no guarantees are made regarding its accuracy, completeness, or timeliness.



NOTIFICATIONS

INDIRECT TAX

GST (Central Tax)

Notification No. 30/2024 – Central Tax

New Delhi, the 10th December, 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 eleventh day of December, 2024, for the registered persons whose principal place of business is in the district of Murshidabad in the state of West Bengal 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-20001/10/2024-GST]

Notification No. 31/2024–Central Tax

New Delhi, the 13th December, 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 (12 of 2017), namely

The details can be read at: <https://taxinformation.cbic.gov.in/view-pdf/1010239/ENG/Notifications>.

Customs (Tariff)

NotificationNo.48/2024-Customs

New Delhi, dated the 3rd December, 2024

G.S.R....(E).-In exercise of the powers conferred by sub-section(1) of section 25 of Customs Act, 1962 (52 of 1962) read with Section 21 of General Clauses Act, 1897 (10 of 1897)and Section 147 of Finance Act, 2002 (20 of 2002), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 32/2022-Customs, dated 30thJune,2022 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(i), vide number G.S.R. 500(E), dated 30th June, 2022, except as respects things done or omitted to be done before such rescission.

2. This notification shall come into force with immediate effect.

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

Customs (Non - Tariff)

Notification No.85 /2024-CUSTOMS (N.T.)

New Delhi, 13th December, 2024

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry

of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

“TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1158
2	1511 90 10	RBD Palm Oil	1171
3	1511 90 90	Others – Palm Oil	1165
4	1511 10 00	Crude Palmolein	1174
5	1511 90 20	RBD Palmolein	1177
6	1511 90 90	Others – Palmolein	1176
7	1507 10 00	Crude Soya bean Oil	1125
8	7404 00 22	Brass Scrap (all grades)	5343

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	864 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	1036 per kilogram
3.	71	<p>(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92;</p> <p>(ii) Medallions and silver coins having silver content not below 99.9% or semi- manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</p> <p>Explanation - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	1036 per kilogram



Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
4.	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	864 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6448"

2. This notification shall come into force with effect from the 14th day of December, 2024.

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

Notification No. 86/2024-Customs (N.T.)

New Delhi, Dated 16th December, 2024

S.O.(E).- In exercise of the powers conferred by proviso to sub - section (1) of Section 65 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby specify the manufacturing processes and other operations in relation to a class of goods that shall not be permitted in a warehouse, as mentioned in column (2) of the table below:-

Table

Sl. No.	Manufacturing processes and other operations in relation a warehouse to a class of goods in a warehouse
(1)	(2)
1.	Goods imported for solar power generation projects which supply electricity.

Explanation- For the purpose of Sl. No. 1, the restriction is applicable only when electricity is result into from the manufacturing processes and other operations in relation to the warehoused goods under section 65 of Customs Act 1962(52 of 1 962).

2. The notification shall come into force with effect from the 17th December, 2024.

[D. No. CBIC-170484/11/2024-LC]

Customs (Anti-Dumping Duty)

Notification No. 26/2024-CUSTOMS (ADD)

New Delhi, the 04th December, 2024

G.S.R. ...(E). – Whereas, in the matter of "Textured Tempered Coated and Uncoated Glass" (hereinafter referred to as the subject goods), falling under tariff headings 7003, 7005, 7007, 7016, 7020 and 8541 of

the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in or exported from China PR and Vietnam (hereinafter referred to as the subject countries) and imported into India, the designated authority in its preliminary findings vide Notification No. 6/29/2023-DGTR, dated the 5th November, 2024, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 5th November, 2024, has provisionally concluded that-

- (a) the subject goods that have been exported to India from the subject countries are at dumped prices;
- (b) there is substantial increase in imports of subject goods from the subject countries in both absolute terms and in relation to production and consumption;
- (c) the material injury suffered by the domestic industry has been caused by the dumped imports from the subject countries,

and has recommended imposition of provisional anti-dumping duty on imports of the subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 9A of the Customs Tariff Act read with rules 13 and 20 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, on the basis of the aforesaid findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under the tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, a provisional anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in

column (9) and as per unit of measurement as specified in the corresponding entry in column (8) of the said Table, namely:-

[No. CBIC-190354/182/2024-TRU]

The details can be read at: <https://taxinformation.cbic.gov.in/view-pdf/1010236/ENG/Notifications>.

Central Excise (Tariff)

Notification No. 29/2024-Central Excise

New Delhi, dated the 2nd December, 2024

G.S.R....(E).- In exercise of the powers conferred by section 147 of Finance Act, 2002 (20 of 2002) read with section 5A of the Central Excise Act, 1944 (1 of 1944) and Section 21 of General Clauses Act, 1897 (10 of 1897), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby rescinds the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), as mentioned in the Table below, except as respects things done or omitted to be done before such rescission, namely:-

Table

Sl. No.	Notifications
1.	No. 03/2022-Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 491(E), dated the 30th June, 2022.
2.	No. 04/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 492(E), dated the 30th June, 2022.
3.	No. 05/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 493(E), dated the 30th June, 2022.



Sl. No.	Notifications
4.	No. 06/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 494(E), dated the 30th June, 2022.
5.	No. 07/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 495(E), dated the 30th June, 2022.
6.	No. 09/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 497(E), dated the 30th June, 2022.

2. This notification shall come into force with immediate effect.

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

Notification No. 30/2024-Central Excise

New Delhi, dated the 2nd December, 2024

G.S.R....(E).- In exercise of the powers conferred by section 112 of Finance Act, 2018 (13 of 2018) read with section 5A of the Central Excise Act, 1944 (1 of 1944) and Section 21 of General Clauses Act, 1897 (10 of 1897), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby rescinds the following notifications of the Government of India in the Ministry of Finance (Department of Revenue), as mentioned in the Table below, except as respects things done or omitted to be done before such rescission, namely:-

Table

Sl. No.	Notifications
1.	No. 10/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section

Sl. No.	Notifications
	(i), vide number G.S.R. 498(E), dated the 30th June, 2022.
2.	No. 11/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 499(E), dated the 30th June, 2022.

2. This notification shall come into force with immediate effect.

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

Notification No. 31/2024-Central Excise

New Delhi, dated the 3rd December,2024

G.S.R....(E).- In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 112 of Finance Act, 2018 (13 of 2018), Section 125 of the Finance Act, 2021(13 of 2021) and Section 21 of General Clauses Act, 1897 (10 of 1897), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 08/2022- Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 496(E), dated the 30th June, 2022, except as respects things done or omitted to be done before such rescission.

2. This notification shall come into force with immediate effect.

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

Central Excise (Non-Tariff)

Notification No. 01/2024-Central Excise (N.T.)

New Delhi, dated the 3rd December, 2024

G.S.R (E). -In exercise of the powers conferred by



section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules to amend the Central Excise Rules, 2017, namely: -

1. Short title and commencement -
 - (1) These rules may be called the Central Excise (Amendment) Rules, 2024.
 - (2) This notification shall come into force with immediate effect.
2. In the Central Excise Rules, 2017 (hereinafter referred to as the said Rules), in rule 18, before the explanation, the first proviso shall be omitted;
3. In the said Rules, in rule 19, the proviso shall be omitted.

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



CIRCULARS

INDIRECT TAX

GST

Circular No. 239/33/2024-GST

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

New Delhi, dated the 4th December, 2024

Subject: Amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on 'Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017'-reg.

Vide Notification No. 02/2022-Central Tax dated 11th March, 2022, para 3A was inserted in Notification No. 02/2017-Central Tax dated 19th June, 2017, to empower Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of some of the specified Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of the Directorate General of Goods and Services Tax Intelligence (herein after referred as DGGI). Further, vide Notification No. 27/2024- Central Tax dated 25th November, 2024, Table V has been substituted in the Notification No. 02/2017-Central Tax dated 19th June, 2017, to empower more number of Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of specified Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of DGGI. Notification No 27/2024- Central Tax dated 25th November, 2024 has come into effect from 1st December, 2024.

2. Consequently, para 7.1 of the Circular No. 31/05/2018-GST dated 9th February, 2018 (as amended by Circular No. 169/01/2022-GST dated 12th March, 2022) is substituted as below:

“7.1 In respect of show cause notices issued by officers of DGGI, there may be cases where,

- (i) a show cause notice is issued to multiple noticees, either having the same or different PANs; or
- (ii) multiple show cause notices are issued on the same issue to multiple noticees having the same PAN,

and the principal place of business of such noticees fall under the jurisdiction of multiple Central Tax Commissionerates. For the purpose of adjudication of such show cause notices, Additional/ Joint Commissioners of Central Tax of specified Commissionerates have been empowered with All India jurisdiction through amendment in the Notification No. 02/2027 dated 19th June, 2017 vide Notification No. 02/2022-Central Tax dated 11th March, 2022, as further amended vide Notification No. 27/2024-Central Tax dated 25th November, 2024. Such show cause notices may be adjudicated, irrespective of the amount involved in the show cause notice(s), by one of the Additional/ Joint Commissioners of Central Tax empowered with All India jurisdiction vide the above mentioned notifications. Principal Commissioners/ Commissioners of the Central Tax Commissionerates specified in the said notification will allocate charge of Adjudication (DGGI cases) to one or more Additional Commissioners/ Joint Commissioners posted in their Commissionerates. Where the location of principal place of business of the noticee, having the highest amount of demand of tax in the said show cause notice(s), falls under the jurisdiction of a Central Tax Zone/Commissionerate mentioned in column 2 of the table below, the show cause notice(s) may be adjudicated by one of the Additional Commissioners/ Joint Commissioners of Central Tax, holding the charge of Adjudication (DGGI cases), of the Central Tax Commissionerate mentioned in column 3 of the said table corresponding to the said Central Tax Zone/Commissionerate. Such show cause notice(s) may, accordingly, be made answerable by the officers of DGGI to the concerned Additional/ Joint Commissioners of Central Tax.

The details can be read at: <https://taxinformation.cbic.gov.in/view-pdf/1003252/ENG/Circulars>].

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 were 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 20th, 2024	GSTR-3B-Other than QRMP scheme
	GSTR-5A-OIDAR Services
Dec 31st, 2024	GSTR-9-Annual Return
	GSTR-9A-Annual Return (Composition Scheme Dealers)
	GSTR-9C-Annual Reconciliation Statement

DIRECT TAX

Due Date	Returns
Dec 30th, 2024	Due date for furnishing of challan-cum-statement for tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of November, 2024
	Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2023 to December 31, 2023) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.
Dec 31st, 2024	Filing of belated/revised return of income for the assessment year 2024-25 for all assessee (provided assessment has not been completed before December 31, 2024)



E-PUBLICATIONS

Of

TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals

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

Impact of GST on Real Estate

Insight into Customs-Procedure & Practice

Input Tax Credit and In depth Discussion

Taxation on Co-operative Sector

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

Guidance Note on Anti Profiteering

Handbook on GST on Service Sector

Handbook on Works Contract under GST

Handbook on Impact of GST on MSME Sector

Assessment under the Income Tax Law

Impact on GST on Education Sector

International Taxation and Transfer Pricing

Handbook on E-Way Bill

Handbook on Filing of Returns

Handbook on Special Economic Zone and Export Oriented Units

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

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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

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



Contact Details:

Tax Research Department

12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364714/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

Ph: 091-11-24666100