February, 2025

TAX Bulletin

Volume - 178

17.02.2025

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
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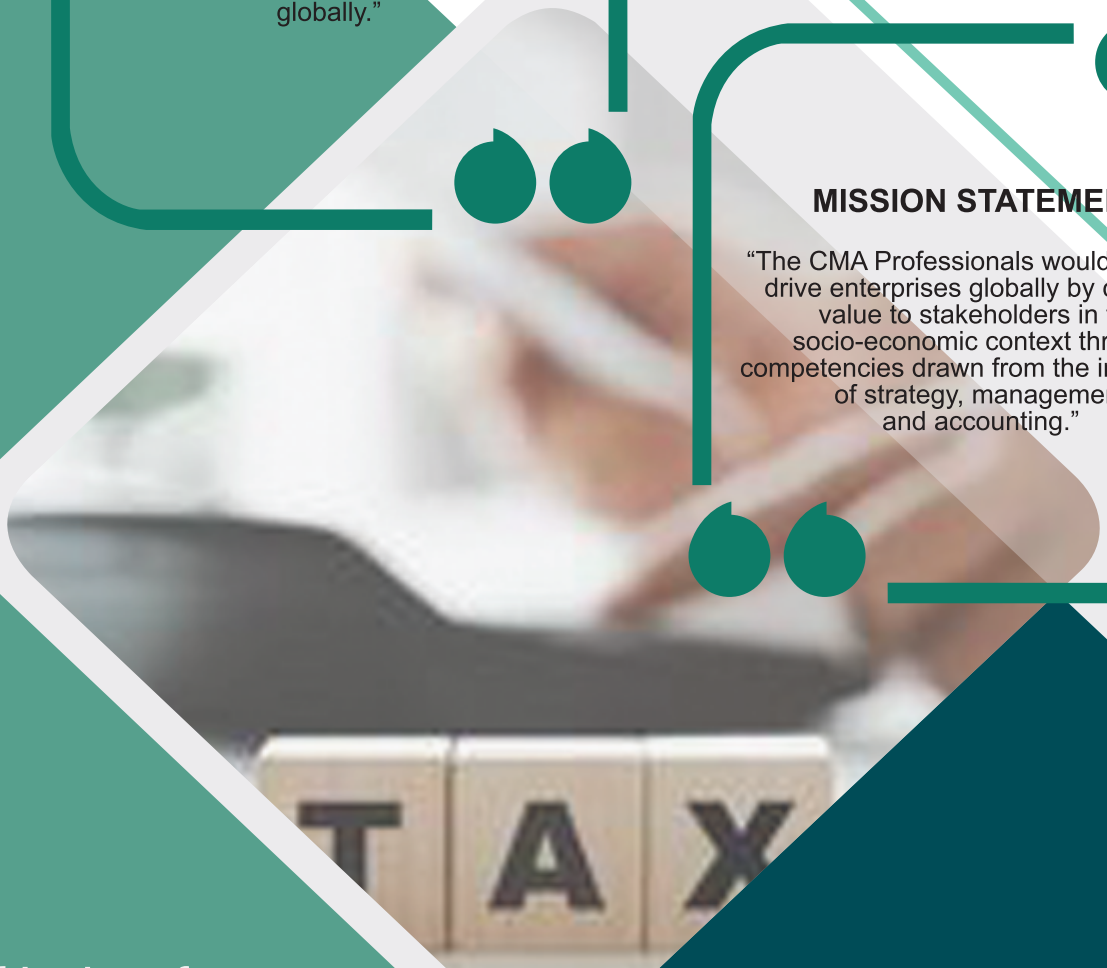

Objectives of Taxation Committees:

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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Modalities

Description	Course Name						
	CCGST	ACCGST	ACGAA	CCTDS	CCFOF	ACIAA	CCIT
Hours	72	40	30	30	30	30	50
Mode of Class	Offline/ Online	Online					
Course Fee* (₹)	10,000	14,000	12,000	10,000	10,000	12,000	10,000
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Modalities

Description	Courses for Colleges and Universities	
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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

A discussion on Union Budget 2025, a webinar was organized by the TRD on Budget Day itself, 01.02.2025, themed, 'Union Budget-2025 - On Spot Review". The Speakers of the session has been Prof. Prabhakar Reddy Tada, Economist on the Economic Aspects of Budget, CMA Ajith Sivadas and CMA Gopal Krishna Raju on Direct Tax, CMA Mrityunjay Acharjee on Indirect Tax & Customs and the Moderator was CMA B M Gupta. The webinar was participated by almost 450 participants and the discussions were widely appreciated.

A team of CMA members also participated in an outreach programme which was conducted on 07.02.2025 by Pr.CCIT (NaFAC) & Pr. CCIT (NFAC) with the objective of gaining insight about the issues being faced by Stakeholders, Tax Practitioners Association, Chamber of Commerce & Trade bodies. They also shared a list of problems/questionnaire, view & suggestions related to issues facing in Faceless assessment & Faceless Appeal (NaFAC & NFAC) for a better discussion. This physical meeting was held at Multipurpose Hall, 1st Floor, Aayakar Bhawan, Kolkata- 700 069.

The Institute of Cost Accountants of India welcomed the Income Tax Bill 2025, introduced on 13th February 2025 which aims to streamline provisions, eliminate obsolete references, establish a more concise & transparent legal framework to reduce litigation and improve voluntary compliance. In this regard, we are looking forward to the preparation of the draft suggestions on the Income Tax Bill 2025 for onward submission to the Ministry. The members, Chapters and Regional Councils are earnestly requested to participate whole heartedly in this process.

On the Departmental front also a special edition Tax Bulletin on Union Budget 2025 has been prepared. The Bulletin included a special take on the DT and IDT aspects of the Union Budget. The classes for the Taxation Courses are being continued and all other activities are also being taken up simultaneously.

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

17.02.2025

Chairman's Message

CMA Dr. Ashish P. Thatte

Chairman Indirect Taxation Committee

The government presented the Union Budget for the financial year 2025–26 on 01st February 2025. The Budget would strengthen India's manufacturing base, promote exports and simplify trade-related processes to boost global competitiveness. It is also the government's aim to create a balanced approach encouraging domestic industries to promote the "Make in India" initiative while facilitating seamless integration with global value chains. This would strategically attract large global players to set up bases in India in response to emerging geopolitical realities.

In line with the "Make in India" and "Aatmanirbhar Bharat" initiatives, there has been a significant focus on restructuring the tariff structure regarding import duties on raw materials, inputs and capital goods required for domestic manufacturing. The government has also increased duties on certain items, recognising the potential of tariffs to meet different national economic objectives. To promote sustainability and mitigate climate change, the government has been focusing on reducing duties on renewable energy equipment, electric vehicle components and green technologies. These measures align with India's commitments to reducing carbon emissions and fostering a greener economy.

Additionally, the government is taking non-tariff measures, such as licensing requirements and mandatory compliances, to improve the quality and compliance standards, which are often viewed as barriers to international trade.

Furthermore, the Central Board of Indirect Taxes (CBIC) has been taking measures to digitise compliance, such as faceless assessment and electronic credit ledger for duty payment under customs, to promote ease of doing business. These initiatives will streamline cargo clearance processes and improve trade facilitation. The budget is surely a welcome move for the Tax assessees.

In February, 2025 the Tax Bulletins has been released by the Department along with the conduct of courses which are being carried on regularly. A representation has also been submitted to the TRU, Ministry of Finance providing Feedback/ suggestions on Harmonization of GST Rate Schedule on Services and the Classification of Services adopted for GST-reg.

I wish the best to the members of Team – TRD and the associated Resource Pool.

Ashish Thatte

CMA (Dr) Ashish P Thatte

Chairman – Indirect Taxation Committee

The Institute of Cost Accountants of India

17.02.2025

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

Please send the articles to

trd@icmai.in /trd.dd2@icmai.in

Handling Show Cause Notices under GST: A Comprehensive Overview

CMA Ajith Sivadas
Cost Accountant

Under the Goods and Services Tax (GST) regime, which is based on the principle of self-assessment, taxpayers may occasionally fail to accurately determine or assess the tax liability on their supplies, leading to instances of non-payment or underpayment of tax. Similarly, errors in the claiming of Input Tax Credit (ITC) or the erroneous granting of refunds can also arise. In such cases, the proper officer is empowered to issue a Show Cause Notice (SCN) to the taxpayer, followed by an adjudication process.

A Show Cause Notice is an official communication issued by the tax authorities, requesting the recipient to explain, with justifications, why a specific course of action should not be taken against them. The principle of natural justice—audi alteram partem, meaning "let the other side be heard"—requires that no individual be judged guilty without being granted an opportunity to answer the charges made against them.

Distinction Between Sections 73 and 74 of the GST Act

Sections 73 and 74 of the GST Act, which govern the issuance of Show Cause Notices, both deal with tax demands but apply in different scenarios:

1. **Section 73:** Deals with demands arising due to reasons other than fraud, willful misstatement, or suppression of facts with the intent to evade tax.
2. **Section 74:** Deals with demands arising due to fraud, willful misstatements, or suppression of facts to evade payment of tax.

Communication of Notice

Section 169(1) specifies the modes of communication for any decision, order, summons, notice or any other communication

- by giving or tendering it directly or by a messenger including a courier
- by registered post or speed post or courier with acknowledgement due
- by sending a communication to his e-mail address
- by making it available on the common portal

Time and Monetary Limits

- The Central Board of Indirect Taxes & Customs (CBIC) has issued several circulars outlining the delegation of powers and responsibilities among different officers under the GST framework. For instance, Circular No. 1/1/2017-GST and Circular No. 3/3/2017-GST designated specific officers for various provisions of the GST Act, including

registration, composition levy, and other provisions. Circular No. 31/05/2018-GST expanded the scope of officers authorized to issue Show Cause Notices under Sections 73 and 74, which includes Additional/Joint Commissioners of Central Tax and Superintendents.

- Superintendent – 10L in case of CGST+20L in case of IGST
- AC/DC – 10L to 1 Crore in case of CGST + 20L to 2 Crores in IGST
- ADC/JC – > 1 Crore in case of CGST + >2 Crores in case of IGST

Monetary limits have also been set for officers based on the tax demand. For cases involving multiple jurisdictions, tax demands exceeding Rs. 5 crores are to be adjudicated by an officer at the level of Additional Director/Additional Commissioner, who is not from the Directorate General of GST Intelligence (DGGSTI) at the time of adjudication.

Show Cause Notice: A Precondition to Tax Demand

As per Sections 73 and 74 of the GST Act, the issuance of a Show Cause Notice is a fundamental requirement for a valid demand. The Supreme Court, in Gokak Patel Volkart Ltd. vs. CCE (1987), emphasized that the issuance of a Show Cause Notice is mandatory before proceeding with any demand for tax. This principle was reiterated in subsequent rulings such as Metal Forgings vs. UOI (2002) and UOI vs. Madhumilan Syntex Pvt. Ltd. (1988), confirming that the issuance of such a notice is not just a formality but a critical step in ensuring that the taxpayer is given the opportunity to defend their case.

Anatomy of a Show Cause Notice

Taxpayers often encounter letters or communications from the tax authorities demanding payment without specifying the exact tax amount or providing sufficient justification. Such communications cannot be equated with a valid Show Cause Notice. In Metal Forgings vs. UOI (2002), the Supreme Court held that letters from the authorities suggesting payment without proper classification cannot be treated as Show Cause Notices.

Further, in Steel Ingots vs. UOI (1988), the Madhya Pradesh High Court ruled that a mere letter from a tax officer asking for payment is not a valid Show Cause Notice, as it violates the principles of natural justice. The Karnataka High Court, in CC, Bangalore vs. Merchant Impex (2012), held that rejection of an exemption claim after issuing only a letter from the officer, without a proper Show Cause Notice, is invalid.

Part I: Receipt of Intelligence/Audit Objection/ Reference – Discusses the background as to how the present proceeding started. Based on intelligence or audit objection or discrepancies in documents noticed during scrutiny of return, or reference received from other department /DRI/DGCEI/ Vigilance/Audit etc. The details in this part should be sufficient enough to justify further investigation/Inquiry.

Part II: Preliminary Action on Intelligence/Audit Objection/Reference – This discusses after receipt of intelligence/inputs/reference, what further action has been carried out by the department.

- The action could be by way of search (es) conducted, recording statement of concerned person(s), collecting relevant information from other sources including Bank, other departments etc.
- If statement of any person is recorded, then relevant portions of such statement have to be captured/ discussed in the SCN.
- Wherever letters have been addressed to Bank / other Government Department, other manufacturer /dealer etc., such action taken by the Department and consequent outcome thereof, have to be discussed in this part.
- In case where searches have been carried out, details of the premises searched and outcome.

Part III: Details of Further Investigations - Further course of action taken to pursue further inquiry/ investigation. This would include –

- Differential duty recoverable and its calculation

may also be worked out in this part.

- If any court proceeding (such as for non-compliance of summons etc.) takes place, brief of such Court proceeding have to be discussed here.

Part IV: Relevant Legal Provisions - The relevant legal provisions in the form of Sections/ Rules/ Notification/ Circular/Department Instruction etc. which are relevant to this case are mentioned.

Part V: Act of Commission or Omission by Noticee vis a vis Legal Requirement - The act of Noticee (s) vis-a-vis legal requirements is discussed, thereby, discussing contravention of various statutory provisions as well. Role played by each person and contravention of specific provision is to be discussed which is required for imposition of penalty, by his/her acts of omission or commission, resulted in evasion of duty/ contravention of provisions of law.

Wherever extended period of five years for demand of duty/tax is being invoked, then justification for such extended period of limitation should be clearly mentioned in the show cause notice. Whether there is fraud, or suppression of fact, or mis-statement or deliberate contravention of provisions of the Act, has to be clearly brought out in the SCN. Since invocation of extended period of limitation requires presence of mens rea, it has to be clearly explained/ discussed along with evidences supporting such intent in this paragraph.

Part VI: Charging Paragraph - The noticee is asked to show cause against the adverse actions which are proposed to be taken against him by the Department. This paragraph also mention as to whom (Designation of authorities and its office address) the impugned SCN is answerable. It should be carefully seen as the charging paragraph defines the limit of SCN and adjudicating authority cannot go beyond the charging sections.

The RUDs should be numbered serially and should be given a specific number.

- While listing any document as RUD, the complete document should be enclosed rather than enclosing some specific pages (which are relevant for the investigation) of the documents in question.
- When a statement recorded has been made RUD to the SCN, then, if any evidence, recovered/ obtained during investigation has been shown to the person at the time of recording of his statement and got signed from him in token of having seen the documents, then such document should also be treated as an integral part of the statement.
- Mention all noticees to whom the notice is to be served. The name and address of each noticee should be clearly and correctly mentioned.
- The company and individual are different and both should be made separate noticees (except in the case of proprietary concern).

Legal Standards for a Show Cause Notice

A Show Cause Notice must adhere to the principles of natural justice. It must clearly state the allegations against the taxpayer, with sufficient specificity and detail. Vague or ambiguous notices are not legally acceptable. The notice must also disclose the evidence that the department intends to rely upon and must spell out the basis of the demand. In CCE vs. Brindavan Beverages (P) Ltd. (2007), the Supreme Court emphasized that a vague notice cannot form the foundation of a valid demand. Similarly, in Mehta Pharmaceuticals vs. CCE (2003), it was ruled that an ambiguous notice cannot form the basis for an order.

Issuance Based on Assumptions and Presumptions

In Oudh Sugar Mills Ltd. vs. UOI (1978), the Supreme Court ruled that a Show Cause Notice based solely on assumptions or presumptions, without substantial evidence, is legally flawed. In this case, the allegations of clandestine removal were based only on sample testing, without tangible evidence to substantiate the claims.

Quantification of Demand in a Show Cause Notice

While some rulings suggest that a Show Cause Notice can still be valid without specifying the exact demand amount, the majority opinion in Bihari Silk & Rayon Processing Mills (P) Ltd. vs. CCE (2000) held that a Show Cause Notice must, at the very least, "specify"

the amount, as it is crucial for determining the taxpayer's liability. However, the tribunal in Gwalior Rayon Mfg. Co. vs. UOI (1982) maintained that a Show Cause Notice that lacks detailed particulars does not automatically invalidate the notice.

Issuance under the Correct Provision

In N.B. Sanjana vs. The Elphinstone Spg. & Wvg. Mills Co.Ltd. (1978), the Supreme Court ruled that even if a Show Cause Notice is issued under the wrong provision, it will not render the notice invalid as long as the power to issue the notice is traceable to the relevant statute.

Corrigendum and Addendum to Show Cause Notices

Occasionally, a Show Cause Notice may contain errors or omissions, and the authorities may issue a corrigendum or addendum to correct the mistakes or fill in the gaps. However, if the changes are substantial or introduce new grounds for action, the revised notice may be treated as a fresh notice, and the timelines for limitation will be recalculated based on the new issuance date.

The Principle of Res Judicata

The principle of res judicata dictates that once a matter has been adjudicated and reached finality, it cannot be reconsidered. In Metal Extruders Pvt. Ltd. vs. UOI (1994), the Bombay High Court held that a second Show Cause Notice for the same cause of action and the same period is not permissible once the matter has already been adjudicated.

Service of Show Cause Notice

Section 169 of the GST Act outlines the modes of service for Show Cause Notices, requiring that they be served in a prescribed sequence, starting with personal service, followed by service through registered post, speed post, or courier. The use of electronic communication like email may only be resorted to if the other methods fail.

Check List before reply

Noticee Details

- Has the noticee's name, Registration No. / IEC No. (for import/export), and complete address been mentioned?
- Primary Activity of the Noticee
  - Is the primary activity of the noticee clearly mentioned? For example, in the case of a manufacturer, has the kind of goods manufactured been specified?
- Gist of Intelligence/Information
  - Does the Show Cause Notice (SCN) mention the gist of the intelligence/information that led to further inquiry or investigation?
- Grounds for Extended Limitation Period
  - Are the grounds for invoking the extended period of limitation clearly explained in the SCN?
- Quantification of Duty
  - Has the quantification of the duty demanded been explained clearly and unambiguously?
  - Are the documents on which the duty calculation is based clearly mentioned?
  - Is it specified whether these documents have been made RUD (Record Under Document) to the SCN?
- List of Record Under Documents
  - Is there a list of RUDs enclosed with the SCN, along with a description of each RUD and the page numbers where they are placed?
- Legibility of RUDs
  - Are the RUDs legible and properly photocopied?
- Approval by Adjudicating Authority
  - Has the SCN been approved by the competent Adjudicating Authority who is authorized to decide the matter?

Circular No. 1053/2/2017-CX., dated 10-3-2017

- Proper notice must contain the time, authority, place and nature of hearing

Other Points

- Check whether summary is uploaded electronically in FORM GST DRC-01 or DRC 02.
- Check whether proper officer served SCN communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.
- Representation or the reply to any notice issued, whose summary has been uploaded electronically in FORM GST DRC-01 shall be furnished in FORM GST DRC-06.
- Always check for the specific time limit stated in the notice; if required, seek proper extension as per required time to furnish reply.
- Delay in filing reply can affect the upper limit for issuance of orders.
- Check whether proper DIN, jurisdiction, proper dates etc. are there in the notice.
- Whether notice clear on allegation or issued based on assumption?
- Whether notice issued by proper officer having jurisdiction? -
- DGGSTI to only issue notice and not adjudicate
- Whether proper SCN Ref. no. allocated, DIN No. allocated?
- Whether Pre-SCN consultation u/r 142 given?

Conclusion

The Show Cause Notice plays a crucial role in the GST enforcement process, ensuring that taxpayers are afforded a fair opportunity to respond to any alleged discrepancies in tax payment or ITC claims. It must be issued with precision, clarity, and legal substantiation. Taxpayers must be diligent in reviewing the details and timelines associated with these notices, as failure to adhere to legal requirements may compromise their rights. Ensuring that Show Cause Notices comply with legal standards is essential for maintaining transparency, fairness, and accountability in the tax system

"Principle of Mutuality" in Income Tax

CMA Pramod Kumar Agarwal

Dy.General Manager | Finance & Accounts- Taxation GAIL (India) Ltd

Background

The 'Principle of Mutuality' is based on the concept that 'No man can make profits out of himself'. The essence of this principle lies in the commonality of contributors and participants who are also beneficiaries. The principle of mutuality refers to a concept where a group of individuals enter into transactions or dealings among themselves as part of a mutual association.

This principle offers a potential tax advantage as long as the mutual nature of the association is maintained. Mutual concerns like members' clubs, cooperative societies, mutual benefit funds or chit funds, etc., where the persons form the concern or the association for the benefit or advancement of certain mutual activities uses the principle of mutuality.

In the realm of tax law, the principle of mutuality presents a unique perspective on transactions conducted within mutual associations. This principle, rooted in the idea that one cannot generate taxable profit from themselves, holds significant implications for both individuals and associations alike.

A money collected from the closed one or from family cannot be treated as money earned. In same way, in legal terms, the principle of mutuality refers to a concept where a group of individuals enter into transactions or dealings among themselves as part of a mutual association.

In this article, I am trying to explain the meaning of this principle, its bearing on the Income Tax Act of 1961 and relevant jurisprudence in this regard.

Essence of Mutuality

An entity that is governed by the principle of mutuality is called a mutual concern. A mutual concern is an association of people who agree to contribute funds towards a common purpose and gain the benefit out of the excess amount in the same capacity as the contribution. The contributors, in this case, do not discharge their funds with an intention to trade but as an act of rendering mutual help. The sum received from the contribution shall not be considered as profits, as profits cannot be churned out of one's own contribution.

The basic principle of mutuality applies to all non-commercial activities. As regards income from commercial pursuits, if a club or society or any other entity sets about on an adventure of a commercial nature, it would lose its identity as a mutual concern and it cannot lay any claim for exemption.

The mutual concerns like social clubs and co-operative societies have various sources of income, some of which are governed by the principle of mutuality and hence are not liable to income-tax, whereas others are not so governed and therefore, they are liable to be taxed.

Tax Applicability

The income of mutual concern is exempted from tax. The additional income received from trading within the members of the concern is also exempted. On the other hand, exemptions are not accorded if a mutual concern derives income from an activity pursued with an outsider. Contribution from members: Maintenance

charges, electricity charges, penalties, the interest that is charged on outstanding maintenance charges, and other items of similar nature are some of the contributions that are made by the members of the association. The association works only as an agent that collects these charges and uses it for various common purposes. Any excess amount during a fiscal year is carried forward to the next fiscal year, with no tax exemptions. Interest earned from Fixed deposits are fully taxable: Any interest earned from investments made are also taxable. Rentals received from members for utilizing facilities: Considering the 'Concept of Mutuality', income received from common facilities such as community hall, open spaces, terrace, and other public areas cannot be taxed.

Excerpts from relevant Jurisprudence

1. The Supreme Court in the case of Secundrabad Club v. CIT [2023] 153 taxmann.com 441 through a detailed and illuminating judgment has ruled that the interest income earned on fixed deposits (FDs) made by Clubs in the banks which are members of those Clubs has to be treated like any other income from other sources within the meaning of Section 2(24) of the Income-tax Act,1961 (the Act).

   In other words, it was held that "Mutuality does not exempt from tax, interest income earned by clubs from FDs in banks, irrespective of whether the banks are corporate members of the club or not."

2. The Supreme Court in the case of Cawnpore Club Ltd. (supra) through a brief order dismissed the appeal of the Revenue by holding as under-

   "One of the questions which the High Court had decided in other cases relating to the same assessee was that the doctrine of mutuality applied and, therefore, the income earned by the assessee from the rooms let out to its members could not be subjected to tax. No appeal had been filed against the said decision and the matters stood concluded as far as the assessee was concerned. This being so, no useful purpose would be served in proceeding with the appeals on the other questions when the respondent cannot be taxed because of the principle of mutuality"

3. Decision of the Supreme Court in the case of Bangalore Club v. CIT [2013] 29 taxmann.com 29/212 Taxman 566/350 ITR 509

   The Supreme Court of India in this case held that interest earned by the assessee-club on fixed deposits from its member banks would not be exempt from tax on basis of doctrine of mutuality.

   In this case the assessee-club sought exemption from payment of tax on interest earned on fixed deposits kept with certain banks, which were corporate members of the assessee, on the basis of doctrine of mutuality and its claim was rejected on the ground that there was a lack of identity between the contributors and the participators to the fund and, thus, the interest income was taxable as business income. On appeal to the Supreme Court, it was noted that in course of banking business, member banks used such deposits to advance loans to their clients and thereby violated one to one identity between contributors and participators.

   It was also found that surplus funds were not used for any specific service, infrastructure, maintenance or for any other direct benefit for members of club. It was therefore held by the Supreme Court that loaning out of funds of club by member banks to outsiders for commercial reasons, snapped link of mutuality and the amount of interest earned by assessee from member banks would not fall within ambit of mutuality principle and would therefore, be eligible to tax.

Legal Understanding

The whole structure of the Principle of Mutuality rests upon three pillars, which have been discussed in the light of judicial interpretation from time to time. The triple test for applying the principle of mutuality are as follows:

- the identity of the contributors and recipients of the common fund;

- the status of the association or company, as an instrument obedient to the mandate of its members; and
- the absence of possibility for contributors of the fund to derive profits from contributions made by them.

The principle of mutuality postulates that all the contributors to the common fund must be entitled to participate in the surplus and that all the participators in the surplus are contributors to the common fund. It is in this sense that the law postulates that there must be a complete identity between the contributors and the participators. The essence of the doctrine of mutuality lies in the principle that what is returned is what a member contributes. A person cannot trade with himself. It is on the hypothesis that the income, which falls within the purview of the doctrine of mutuality, is exempt from taxation.

Concluding Remarks

Principle of Mutuality offers a tax shelter, as long as its character of a mutual association is retained, with its income not tainted by commerciality. A formal organization indicating mutuality as between members with bye-laws spelling out mutuality may, however, be necessary as proof of claim to mutuality. The principle of mutuality postulates that all the contributors to the common fund must be entitled to participate in the surplus and that all the participators in the surplus are contributors to the common fund.

It is in this sense that the law postulates that there must be a complete identity between the contributors and the participators.

The essence of the doctrine of mutuality lies in the principle that what is returned is what a member contributes. A person cannot trade with himself. It is on the hypothesis that the income, which falls within the purview of the doctrine of mutuality, is exempt from taxation.

PRESS RELEASE

Income-tax Bill, 2025, tabled in Parliament today towards achieving comprehensive simplification of the Income-tax Act, 1961

Posted On: 13 FEB 2025 3:54PM by PIB Delhi

The Income-tax Bill, 2025 was tabled in Parliament today, marking a significant step toward simplifying the language and structure of the Income-tax Act, 1961.

The simplification exercise was guided by three core principles:

1. Textual and structural simplification for improved clarity and coherence.
2. No major tax policy changes to ensure continuity and certainty.
3. No modifications of tax rates, preserving predictability for taxpayers.

A three-pronged approach was adopted:

- **Eliminating intricate language** to enhance readability. Removing redundant and repetitive provisions for better navigation.Reorganizing sections logically to facilitate ease of reference.

Consultative and Research-Based Approach

The Government ensured widespread stakeholder engagement, consulting taxpayers, businesses, industry associations, and professional bodies. Out of 20,976 online suggestions received, relevant suggestions were examined and incorporated, where feasible. Consultations were held with industry experts and tax professionals and simplification models from Australia and the UK were studied for best practices.

Outcomes of the Simplification Exercise Quantitative

Impact

The review has led to a substantial reduction in the Act's volume, making it more streamlined and navigable. Key reductions are summarized below:

Item	Existing Income-tax Act, 1961	Proposed in the Income-tax Bill, 2025	Change (Reduction/Addition)
Words	512,535	259,676	Reduction: 252,859 words
Chapters	47	23	Reduction: 24 chapters
Sections	819	536	Reduction: 283 sections
Tables	18	57	Addition: 39 tables
Formulae	6	46	Addition: 40 formulae

Qualitative Improvements

- Simplified language, making the law more accessible. Consolidation of amendments, reducing fragmentation.Removal of obsolete and redundant provisions for greater clarity.Structural rationalization through tables and formulae for improved readability. Preservation of existing taxation principles, ensuring continuity while enhancing usability.

The Income-tax Bill, 2025 reflects the Government's commitment to enhancing ease of doing business by providing a tax framework that is simple and clear.

NOTIFICATIONS

INDIRECT TAX

GST (Central Tax)

Notification No. 09/2025–Central Tax

Dated 11th February, 2025.

G.S.R...(E).—In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with sub-rule (1) of rule 1 of the Central Goods and Services Tax (Amendment) Rules, 2024 (hereinafter referred to as rules), issued vide notification No. 12/2024-Central Tax, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 376(E), dated the 10th July, 2024, the Central Government hereby appoints the following dates as mentioned in column (3) of the table below, on which the provisions of rules specified in column (2) of the said table, shall come into force, namely: —

Table

S. No	Rules	Date
(1)	(2)	(3)
1	Rules 2, 24, 27 and 32	11th day of February, 2025
2	Rules 8, 37 and clause (ii) of rule 38	1st day of April, 2025

[No.CBIC-20006/21/2024-GST]

Customs (Tariff)

Notification No. 14/2025-Customs

Dated 13th February, 2025

G.S.R (E). -In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with section 124 of the Finance Act, 2021 (13 of 2021), 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. 11/2021 – Customs, dated the 1st February, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i), vide number G.S.R. 69(E), dated the 1st February, 2021, namely:-

In the said notification, in the Table, -

i. for Sl. No. 9. and the entries relating thereto, the following Sl. No. and entries shall be substituted, namely: -

(1)	(2)	(3)	(4)
"9.	2204, 2205, 2206, 2208 (other than tariff item 2208 30 11 and 2208 30 91)	All goods (other than bourbon whiskey)	100%";

ii. after Sl. No. 9B., and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)
"9C.	2208 30 11, 2208 30 91	Bourbon whiskey	50%".

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

[F. No. 190354/21/2025-TRU]

Customs (Non - Tariff)

Notification No. 10/2025-CUSTOMS (N.T.)

Dated 14th February, 2025

S.O. … (E).– In exercise of the powers conferred by sub-section (2) of section 14pre 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	1111
2	1511 90 10	RBD Palm Oil	1147
3	1511 90 90	Others – Palm Oil	1129
4	1511 10 00	Crude Palmolein	1155
5	1511 90 20	RBD Palmolein	1158
6	1511 90 90	Others – Palmolein	1157
7	1507 10 00	Crude Soya bean Oil	1082
8	7404 00 22	Brass Scrap (all grades)	5244

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	938 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	1043 per kilogram
3.	71	(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; (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. 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.	1043 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.	938 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	8140"

2. This notification shall come into force with effect from the 15th day of February, 2025.

[F. No. 467/01/2025-Cus.V]

Notification No. 11/ 2025-CUSTOMS (N.T.)

Dated 17th February, 2025.

G.S.R..... (E) - In exercise of the powers conferred by section 157 read with section 143AA of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs, for the purposes of facilitation of trade, hereby makes the following regulations, namely:-

1. **Short title and commencement.-** (1) These regulations may be called the Customs (On - Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025.

(2) They shall come into force with effect from the date to be notified.

The notification can be read at https://taxinformation.cbic.gov.in/view-pdf/1010317/ENG/Notifications.

Direct Tax

Notification No. 13/2025

Dated 7th February, 2025

G.S.R. 121(E) — In exercise of the powers conferred by section 295 read with clause (47) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:

1. (1) These rules may be called the Income-tax (Third Amendment) Rules, 2025.

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

2. In the Income-tax Rules, 1962, in rule 2F,–

(a) for sub-rules (1), (2), (3) and (4), the following sub-rules shall be substituted, namely:–

"(1) The Infrastructure Debt Fund shall be set up as a Non-Banking Financial Company conforming to and satisfying the conditions laid down in the regulatory framework provided by the Reserve Bank of India.

(2) The funds of the Infrastructure Debt Fund shall be invested only in,–

(a) post commencement operation date infrastructure projects which have completed at least one year of satisfactory commercial operations; or

(b) toll-operate-transfer projects as the direct lender.

(3) The Infrastructure Debt Fund shall,—

(i) issue rupee denominated bonds or foreign currency bonds in accordance with the directions of Reserve Bank of India and the relevant regulations under the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, as amended from time to time;

(ii) issue zero coupon bonds in accordance with rule 8B; or

(iii) raise funds through loan route under external commercial borrowings.

(4) The terms and conditions of, ─

(a) a bond issued by the Infrastructure Debt Fund,–

(i) under clause (i) of sub-rule (3) shall be in accordance with the directions of the Reserve Bank of India and the regulations referred to in the said clause;

(ii) under clause (ii) of sub-rule (3) shall be in accordance with rule 8B; or

(b) external commercial borrowings by the Infrastructure Debt Fund, under clause (iii) of sub-rule (3) shall be in accordance with the directions of the Foreign Exchange Department of the Reserve Bank of India.";

(b) after sub-rule (5), the following sub-rule shall be inserted, namely:–

"(5A) In case of external commercial borrowings by the Infrastructure Debt Fund, the tenor shall not be less than a period of five years and such borrowings shall not be sourced from foreign branches of Indian banks.";

(c) for sub-rule (7), the following shall be substituted, namely:–

"(7) No investment shall be made by the Infrastructure Debt Fund in any project where its specified shareholder or the associated enterprise or the group of such specified shareholder has a substantial interest.";

(d) in the Explanation,–

(I) in the clause (i), for the word "associate", the word "associated" shall be substituted;

(II) for clause (viii), the following shall be substituted, namely:–

"(viii) "specified shareholder" means a non-banking financial company, or a bank, or any other person holding, directly or indirectly, shares carrying not less than thirty per cent of the voting power in Infrastructure Debt Fund.".

[F. No.370142/9/2024-TPL]

CIRCULARS

INDIRECT TAX

GST

Circular No. 247/04/2025-GST

F. No. 19354/2/2025-TO(TRU-II)-CBEC

Dated 14th February, 2025

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 55th meeting held on 21st December, 2024, at Jaisalmer -reg.

Madam/Sir,

Based on the recommendations of the GST Council in its 55th meeting held on 21st December, 2024, at Jaisalmer, in exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act. 2017, the Boated hereby clarifies the following issues through this circular for the purpose of uniformity in their implementation:

1. Clarification regarding classification and GST rate on pepper of genus Piper

1.1 References were received seeking clarification on the classification and applicable GST rate on supply of pepper o1 the genus Piper and whether supply of dried pepper by an agriculturist is exempt from GST.

1.2 Based on the recommendations of the GST Council in its 55th meeting, it is hereby clarified that pepper of genus Piper, whether green (fresh). white or black, is covered under HS 0904 and attracts 5% GST vide S. No. 3.8 of Schedule I of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

1.3 As regards applicability of GST on supply of dried pepper by an agriculturist front their plantations, Section 23 (1) (b) of the CGST Act provides that an agriculturist, as defined in Section 2(7) or the CGST Act, to the extent of supply of produce out of cultivation of land is not liable to take registration.

1.4 As per the recommendation of the GST Council, it is hereby clarified that an agriculturist supplying dried pepper is not liable to be registered under Section 23(I) of the CGST Act is exempt from GST.

2. Clarification regarding raisins supplied by an agriculturist

2.1 Reference was received seeking clarification on the applicable rate on supply of raisins by agriculturists.

2.2 As per the recommendation of the GST Council, it is hereby clarified that an agriculturist supplying raisins is not liable to be registered under Section 23(1) of the CGST Act is exempt morn GST.

3. Clarification on GST rate on ready to eat popcorn

3.1 Representations were received seeking clarification regarding appropriate classification and applicable GST rate on ready to eat popcorn.

3.2 On the recommendation of the Council, it is hereby clarified that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106.90.99. It is also hereby clarified that such ready to eat popcorn mixed with salt and spices classifiable under HS 2106 90.99 attracts 5% GST if other than pre-packaged and labelled vide S. No. 101A of Schedule I of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017 and 12% GST if sold as packaged and labelled vide S. No. 46 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June. 2017, as it has the essential character of namkeens. However, when the popcorn

is mixed with sugar thereby changing its character' to sugar confectionary (e.g. caramel popcorn). it would be classifiable under US 1704.90.90 attracting 18% GST vide S. No. 12 of Schedule III of notification No. 1/2017-Centi at Tax (Rate) dated the 28th June. 2017

3.3 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on ready to eat popcorn mixed with salt and spices, as recommended by the Council the issue for past period up to 14.2.2025 is hereby regularized on 'as is where is ' basis.

4. Flv ash based Autoclaved Aerated Concrete Blocks

4.1 References were received regarding the classification and applicable GST rate on autoclaved aerated concrete (AAC) blocks containing at least 50% fly ash content as raw material.

4.2 Fly ash bricks, fly ash aggregates and fly ash blocks classifiable under HS 6815 attract 12% GST vide S. No. 176B of Schedule Il of notification No.1/2017-Central Tax (Rate) dated 28.06.2017. Articles of cement, of concrete or of artificial stone, whether or not reinforced classifiable under HS 6810 attract 18% GST vide S. No. 181 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017.

4.3 As per the recommendation of the GST Council, it is hereby clarified that autoclaved aerated concrete (AAC) blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST.

5. Effective date of amended entry regarding ground clearance

5.1 Representations were received that there are different views in some jurisdictions regarding the effective date of amended entry 52B in notification No. 1/2017-Compensation Cess (Rate) dated 28.06.2017.

5.2 Prior to the 50th GST Council meeting. vide entry at S. No. 52B in the notification No. 01/2017- Compensation Cess (Rate) dated 28.06.2017, motor vehicles of engine capacity exceeding 1500 cc, popularly known as SUVs, including utility vehicles attracted 22% Compensation Cess.

5.3 Following the 50th GST Council meeting, vide notification to. 03/2023- Compensation Cess (Rate) dated 26.07.2023, the entry 52B was substituted to provide that the cess will be applicable to all motor vehicles known as utility vehicles by whatever name called. with engine capacity exceeding 1500cc, length exceeding 4000nain and ground clearance of 170nun and above. Further, a new explanation was added that ground clearance means ground clearance in unladen condition.

5.3 As per the recommendation of the GST Council. it is hereby clarified that the amendment carried out vide notification No. 03/2023 - Compensation Cess (Rate) dated 26.07.2023 will apply on or after 26. 7.2023.

6. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

Customs

Circular No. 04/2025-Customs

F. No. 450/119/2021-Cus IV

Dated 17th February, 2025

Subject: Single Unified Multi-Purpose Electronic Bond in Customs-Ekal Anubandh - reg.

Madam/Sir,

CBIC's ongoing initiatives to simplify trade processes, improve transparency, and adopt best practices have resulted in steady improvements across various trade facilitation metrics. Leveraging Information technology, many processes have become paperless and contactless, thus providing ease and less time consuming for the trade.

2. In the same direction, to enhance efficiency and

reduce the administrative load on businesses, CBIC has decided to introduce a project named "Ekal Anubandh", wherein trade will be encouraged to use single All-India Multi-purpose Electronic Bond with end-to-end automation. As a first step, single All-India Multipurpose Bond for importers or exporters in lieu of the transaction-wise Bonds being submitted across different ports, thus offering significant potential to save both time and costs in trade procedures.

The notification can be read at **https://taxinformation.cbic.gov.in/view-pdf/1003266/ENG/Circulars**.

Circular No. 05/2025-Customs

F.No.450/247/2023-Cus IV

Dated 17th February, 2025

Subject: Automation of Refund Application and Processing in Customs – reg.

With the focus on reducing time and cost of trading across the borders, Customs has been taken constantly taking several reform measures aimed at simplification, digitization and making the process efficient and effective. This is in-line with announcement by Hon'ble Finance Minister to digitize all the remaining Customs processes by mid-2026. For example, system-based automated clearances for certain imports of authorized importers were introduced in Customs to reduce the time-taken in this regard. Similarly, all the payments made to the Customs have made digital through electronic payment gateway of ICEGATE.

1.2 On the similar lines, one of the important aspects identified by CBIC for automation is relating to refund procedure under Customs.

Customs Act, 1962 provides for processing the claim for refund by any person of any Customs duty and interest paid or borne by him under section 27. Further, Refund is also sanctioned for export duty in certain cases under Section 26 or under certain notifications such as 102/2007- Customs.

The notification can be read at **https://taxinformation.cbic.gov.in/view-pdf/1003267/ENG/Circulars**.

JUDGEMENT

INDIRECT TAX

No SCN under Section 73 if explanation offere d in response to notice was accepted by department: HC

Facts of the Case :

Goverdhandham Estate (P.) Ltd. v. State of Rajasthan - [2025] (Rajasthan)

The petitioner was engaged in the business of operating hotels and submitted its monthly returns. The department issued a notice stating that the petitioner had availed input tax credit which was not available to him as per Section 17(5) of the CGST Act, 2017. It submitted a reply but the department issued a show cause notice (SCN) under Section 73 of the Act. It filed a writ petition to challenge the SCN.

Decision of the case :

The Honorable High Court noted that the power under Section 73 could be invoked only when the explanation offered was not satisfactory. In the instant case, a communication in FORM No. GST ASMT-12 was issued to the petitioner, stating that the petitioner's reply to the notice under Section 61 had been found to be satisfactory. However, despite this communication, the department initiated proceedings under Section 73 through a show cause notice. Therefore, it was held that the SCN was liable to be set aside.

Writ dismissed as all issues can be raised by petitioner before adjudicating authority itself: HC

Facts of the Case :

Abdul Saleem v. Assistant Commissioner, Anti Evasion - [2025] (Kerala)

The petitioner was served with a show cause notice under Section 127 of CGST Act, 2017 alleging that investigation revealed that petitioner and another person had issued fake invoices without any underlying supply of goods using the GST registration of another entity for monetary benefits. It filed writ petition to challenge the notice by contending that it was not a taxable person but the proceeding was initiated against him.

Decision of the case :

The Honorable High Court noted that the extraordinary remedy of Article 226 of the Constitution of India cannot be invoked to challenge a show cause notice unless there are exceptional reasons. The reasons stated by the petitioner were all matters which can be agitated before the adjudicating authority itself. Moreover, the issue required factual adjudication as well. Therefore, the Court dismissed the writ petition and granted two weeks to file an objection to the notice.

Stay granted as SCN did not reflect instances of wilful suppression, misstatement, or fraud: HC

Facts of the Case :

Bhagya Kalita v. Union of India - [2025] (Gauhati)

The petitioner received a show cause notice (SCN) from the GST department proposing demand under Section 74. It filed writ petition to challenge the SCN on the ground that there was no wilful suppression, misstatement or fraud and the amount paid by the petitioner was clearly acknowledged in the portal of the department.

Decision of the case :

The Honorable High Court noted that as per the Circular No. 5/2023-GST dated 13-12-2023, the mere failure to pay appropriate GST would not be considered as a ground for invocation of Section 74(1) of CGST Act, 2017. However, the perusal of the SCN did not reflect

that the invocation of the jurisdiction under Section 74 of the CGST Act was considered as a situation outside the purview of the circular.

Therefore, the Court held that the notice was to be issued but the further proceedings pursuant to SCN would be stayed. The Court also directed the department to file its reply.

No demand to be raised merely on diff. between GSTR-1 & GSTR-3B without considering reply filed by assessee

Facts of the Case :

Baccarose Perfumes and Beauty Products (P.) Ltd. v. State of Gujarat - [2025] (Gujarat)

The petitioner was having a Free Trade Warehousing Zone Unit in Kandla Special Economic Zone. It paid IGST through TR-6 challan on clearance of goods from Special Economic Zone Area to Domestic Tariff Area. However, the GST portal did not reflect tax paid with TR-6 challan on portal and demand was raised due to difference between Form GSTR-1 and GSTR-3B returns. It filed writ petition against the demand order and contended that it was not required to pay IGST on the goods supplied from SEZ unit to DTA.

Decision of the case :

The Honorable High Court noted that the supply from SEZ Unit to DTA is treated as import for DTA Unit and therefore the DTA unit is required to pay IGST and other applicable duties on filing of the Bill on Entry. The petitioner was not required to pay IGST on the goods supplied from SEZ unit to DTA. Moreover, the petitioner had not even claimed refund of IGST and the tax was paid through Treasury Challan (TR-6).

The Court further noted that as per provisions of Section 74, the authority is required to consider reply of assessee before passing any demand order. In the present case, the department passed the impugned order merely on account of difference between Form GSTR-1 and GSTR-3B. Therefore, the Court held that the demand order was liable to be set aside.

GST paid on advance amount is not to be retained by State if contract is cancelled due to breach of contract: HC

Facts of the Case :

Joint Commissioner of Commercial Taxes (Appeals-1) v. Nam Estates (P.) Ltd. - [2025] (Karnataka)

The assessee entered into a contract with a supplier for supply, installation, and commissioning of Gas insulated Sub-stations (GIS)/Conventional Sub-stations and extra-high voltage transmission lines. An advance payment was made by the assessee and the supplier issued a tax invoice including GST. However, the supplier failed to deliver goods and services leading to cancellation of contract and advance was recovered invoking bank guarantee. The assessee filed a refund application seeking refund of GST amount paid along with necessary documents.

The department issued a notice indicating that the refund eligibility was not established and a refund rejection order was passed. The assessee filed appeal against the refund rejection order and the Appellate Authority held that the supplier was obliged to issue credit notes for cancelled contract and declare those in their tax return. Therefore, it was concluded that the assessee could not seek a refund of GST paid on advance and appeal was rejected. Thereafter, the assessee filed writ petition against the rejection of refund.

Decision of the case :

The Honorable High Court noted that the refund was sought of the amount paid in contemplation of execution of contract. Admittedly, the contract had been breached and the amount remitted to Exchequer by way of GST component in contemplation of discharge of contract could not have been retained by State when contract failed. Therefore, it was held that the order of rejection of refund was to be set aside and the department was directed to refund entire GST amount.

Direct Tax

Sec. 92BA applies to all assessees regardless of section 80-IA deduction is claimed: ITAT

Facts of Case :

Sanghi Industries Ltd. vs. Deputy Commissioner of Income-tax - [2025] (Hyderabad - Trib.)

The assessee was engaged in the manufacturing of Clinker and Ordinary Portland Cement. It had a power-generating unit that was eligible for deduction under section 80-IA. Assessee entered into specified domestic transaction of sale of power by power-generating unit to cement manufacturing unit and had not claimed deduction under section 80-IA for the year under consideration.

The case was referred to the Transfer Pricing Officer (TPO) for determining the Arm's Length Price (ALP), and the TPO determined the adjustment to be made to the assessee's income on account of the Specified Domestic Transactions entered into by the assessee. The TPO passed the order under section 92CA(3).

The matter reached the Hyderabad Tribunal.

Decision of the case :

The Tribunal held that section 92BA requires invoking its provisions that the assessee's transactions should be covered in any of the clauses mentioned at Sl. No. (ii) to (vi) of Section 92BA, either with it any of its associates or with any person having a close connection with the assessee.

If the assessee has the specified domestic transaction with itself or its close associate as per section 92BA, then the arm-length price in relation to the specified domestic transaction is required to be determined by following Most Appropriate Methods as mentioned in section 92C.

On a plain reading of the above sections, it is clear that to attract the rigours of section 92BA, it is required that the transaction should either fall within the realm of 80-IA(8) or 80-IA(10).

In the present case, the power-generating unit of the assessee is connected with the assessee within the meaning of section 80-IA(8) and (10), and it is not disputed that in the course of business, they had entered into the agreement for the supply of electricity. The assessee shifted the extraordinary profit to its power-generating unit.

In other words, by purchasing the power at a higher rate, the assessee increased its expenditure, reducing its income/profit. The relationship between the two is squarely covered by the provisions of sections 80-IA(8) and 80-IA(10). Hence, the transaction is a qualified transaction within the meaning of section 92BA.

It is amply clear that for the invocation of section 92BA, there is no necessity for the assessee to opt for the deduction under section 80-IA during the assessment year under consideration. The option is with the assessee to claim the deduction under section 80-IA for any 10 consecutive assessment years out of the 15 years, as per section 80-IA(2). Merely because the assessee has not exercised the option will not make the eligible transaction falling either in section 80-IA(8) or section 80-IA(10) become ineligible.

Payment made for arranging loan from foreign establishments isn't in nature of royalty or FTS; no TDS u/s 195: ITAT

Facts of Case :

ITO (International Taxation) vs. Hartaj Sewa Singh - [2025] (Kolkata - Trib.)

Assessee is working as an investment banker and strategic management consultant. During the relevant assessment year, the assessee entered into an agreement with a company to arrange a loan for them. Simultaneously, the assessee entered into an agreement with a non-resident company so that the loan could be arranged by taking their services.

The non-resident company arranged loans from foreign establishments and non-resident financiers with their efforts from Singapore. The assessee made payment of advisory fees to the non-resident company without deduction of tax at source. AO held that the payment

made by the assessee was in the nature of royalty on which TDS was liable to be made.

On appeal, the CIT(A) deleted the additions. The matter reached the Kolkata Tribunal.

Decision of the case :

The Tribunal held that the assessee was rendering advisory services to the company through the non-resident company and was working as an investment banker and strategic management consultant. The non-resident company was appointed as advisors and facilitators to raise funds for the company.

Thus, by no stretch of the imagination, the payment of advisory fee could be termed as a royalty or fee for technical services. It was in the nature of commission for the financial services rendered. Therefore, the payment made by the assessee to the non-resident company could not be held as royalty under India-Singapore DTAA.

Limitation period for reassessment can't be extended due to proceedings from writ petition orders: HC

Facts of Case :

Abhinav Jindal vs. Assistant Commissioner of Income-tax - [2025] (Delhi)

The Assessing Officer (AO) issued a notice under section 148 against the assessee. The assessee filed a writ petition challenging the said notice, and the operation of the said notice was stayed.

AO subsequently issued a notice under section 148A(b) and passed an order under section 148A(d). Later, he issued a notice under section 148. The assessee filed a writ petition challenging the said notice on the ground that the same was issued beyond the period of limitation.

The revenue contended that the impugned notices and order should be considered within the specified time as in the earlier round, the High Court had stayed the proceedings, and the time period during which the said petition was pending before the High Court was required to be excluded for computing limitation.

Decision of the case :

The Delhi High Court held that the notice under section 148 could have been issued for six years from the end of the relevant assessment year. The fact that the assessee had succeeded in its challenge to the said notice cannot be a ground for exclusion of the period spent by the assessee in pursuing the said litigation.

The time spent by the assessee in pursuing the challenge can neither be excluded nor claimed as resulting in the extension of the period of limitation. The AO is required to take all necessary steps to initiate the assessment proceedings within the period of limitation. This would obviously mean proper steps in accordance with the law. The fact that the AO had not taken the steps in accordance with the law cannot possibly be construed as a factor in favour of the AO for extending the limitation as stipulated under section 149.

Hypothetical income in agreement not taxable until stipulated conditions are satisfied: ITAT

Facts of Case :

Assistant Commissioner of Income-tax vs. Suryanarayana Iyer - [2025] (Chennai - Trib.)

The assessee, an individual, entered into an agreement with a company to provide judgments for various courts/tribunals. The assessee was to receive total compensation, out of which the assessee had received only a certain amount during the relevant assessment year.

The Assessing Officer (AO) was of the view that the assessee ought to have received the balance amount of compensation as per the agreement. Since the assessee had only offered a certain amount, the balance amount needed to be added by the AO as income accrued to the assessee. The AO made the addition to the assessee's income while following the mercantile system of accounting.

On appeal, the CIT(A) deleted the additions. Aggrieved by the order, the AO filed the instant appeal before the Tribunal.

Decision of the case :

The Chennai Tribunal held that the terms and conditions concerning the grant of license, delivery of licensed materials, the compensation payable etc., are contained

in the License agreement between the parties. The right to receive the income accruing under the agreement arose only after the inspection, review, and acceptance of the materials by the party as stipulated under the agreement.

Until the conditions stipulated in the agreement were satisfied, the income embedded in the relevant agreement was only hypothetical income. It is well settled that income can be said to accrue only when the assessee acquires a right to receive that income. Such accrual may depend on the agreements which may give rise to such rights. Accordingly, the order of CIT(A) was upheld.

No additions based on SEBI's caution letter regarding price manipulation without incriminating material: ITAT

Facts of Case :

Deputy Commissioner of Income-tax vs. Avinash Singla - [2025] 170 taxmann.com 786 (Chandigarh - Trib.)

A search and seizure operation was conducted in the cases of the AFI group of companies, and the residential premises of the assessee were also covered under the search. During the search, a warning letter written by SEBI to the assessee was found wherein it was indicated that certain professionals manipulated the prices of shares.

The Assessing Officer (AO) issued notice under section 153A to the assessee. He further passed an order and made an addition on account of capital gains earned by the assessee on sale of said shares on the grounds that the transactions of these shares were to be treated as bogus and added as assessee's income.

On appeal, the Commissioner (Appeals) had gone through the record carefully and deleted all the additions. Aggrieved filed the instant appeal before the ITAT.

Decision of the case :

The Tribunal held that nothing was found during the course of the search except a warning letter from the SEBI. This letter in itself does not exhibit anything relevant for the assessment of the income of the assessee. It is just a matter of caution for the assessee to avoid transactions with such shares. It is an apprehension that the mentioned company might be involved in manipulating the price of its shares. Still, concretely, it does not provide that the assessee's transactions are to be treated as bogus.

It is pertinent to note that returns were filed before 31-3-2015. The time limit to issue notice under section 143(2) for scrutinising those returns had expired long back. The search took place on 25-4-2018. During the course of the search, details regarding alleged transactions of penny stock were not found. The department could only lay its hands on the letter of SEBI, which was missing in the case of one of the assessees.

AO himself has not cross-verified anything. He only followed some information available on the revenue portal without cross-verifying any circumstance. The Commissioner (Appeals) appreciated the controversy from the right perspective and rightly concluded that no incriminating material was found demonstrating the alleged transactions as bogus during the search. Given this, this appeal had no merit, and it was dismissed.

Tax Calendar

Indirect Tax

Due Date	Returns
Feb 20th, 2025	GSTR-3B-Other than QRMP scheme
	GSTR-5A-OIDAR Services

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.

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