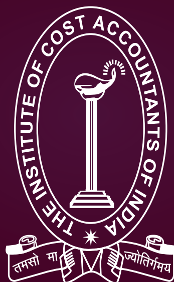
TAX Bulletin

100th Edition



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
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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."

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."

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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CMA Biswarup Basu
President

PRESIDENT'S MESSAGE

The last two years have been a challenging time for the entire world due to outbreak of COVID-19 pandemic. But with proper vaccination and social distancing norms the people at large has been able to achieve a breakthrough in curbing the spread of the virus. I acknowledge the dedicated efforts of the Tax Research Department of the Institute in continuing to disseminate the valuable information and knowledge updates on taxation through all possible means even during these challenging times.

It gives me immense pleasure to note that the Tax Research Department is going to publish the 100th Edition of its fortnightly Tax Bulletin. TRD has been publishing the Tax Bulletin since October 2017 and has successfully completed 4 years of its regular publication. This bulletin is being referred to as a ready resource for all stakeholders addressing all the areas and latest development taking place in the field of Taxation. It is an enriching journal to read, meticulously designed which provides us insight into the various changes that are happening in taxation in our country every fortnight. This Bulletin also includes interpretations on Notifications, Circulars, Judgements, Press Releases and calendar for tax compliance and important judgements.

I congratulate the Tax Research Department for their persistence and praise-worthy efforts. I would also like to express my sincere thanks and gratitude to all the resource persons, knowledge contributors, Industry stalwarts and stakeholders for their insights and guidance in various issues of Tax Bulletin.

I wish the Team TRD success in its all endeavours.

With best regards,

Biswarup Basu

CMA Biswarup Basu
17th November 2021

CMA P Raju Iyer
Vice President

VICE PRESIDENT'S MESSAGE

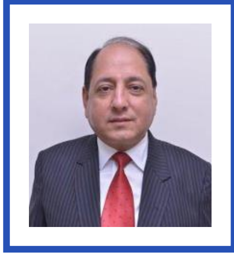
The Government of India has undertaken various policy reforms over the years to streamline the process of taxation and ensure transparency in the country. One such change was the implementation of Goods and Services Tax (GST) which eased the tax regime on goods and services in the country. But such a mammoth task would have not been possible without the support of the professionals who read, understand and decode the laws for their peers and clients. But these professionals also need a steady source of knowledge and simplification of the intricate details of Taxation. This is where, I feel proud to note the efforts of the Tax Research Department of the Institute in putting forward various knowledge enhancement activities.

I am delighted to know that the Tax Research Department is publishing 100th edition of Tax Bulletin, which is being published every fortnight. It is widely circulated to all our members, CBIC and CBDT members, Trade associations, GST Council Members, Union and State Ministers and MCA for their reference. The bulletin has been appreciated and applauded on many platforms by senior officials in the Ministry and the taxation professionals in terms of its contents and coverage of all aspects of taxation.

I acknowledge the hard work and dedication of Team TRD in making this publication a great success. As always, we are counting on you to go the extra mile. The contribution of our eminent resource persons has been humongous. I express my gratitude to all of them for their continuous guidance and support.

With best wishes,

CMA P Raju Iyer
17th November 2021



CMA Rakesh Bhalla
Chairman, Direct Taxation Committee

FROM THE DESK OF CHAIRMAN

It is said that, give me a good book to read every week and I assure you of my best services to the society. In an era, which is bombarded by digitization and the growing tendency of individuals to search on search engines rather than to read and comprehend… a publication which is solely dedicated to Taxation is a gem to look for. And this November, 2021 this wonderful publication has reached its 100th Edition.

I have been a part of Direct Taxation Committee for more than a year and I have had the opportunity to work closely in this fortnightly assignment of bringing out a new Tax Bulletin. The best take away from this association is my constant upgradation of knowledge and understanding the macro perspective of Taxation in our Nation.

This fortnight also the CBDT has also made the following announcements:

- *The Income Tax Department has announced the latest Annual Information Statement (AIS) on the Government Tax Portal 2.0 which gives a comprehensive view of all the details to an Indian taxpayer. This was earlier known as Form No. 26AS. Originally, Form No. 26AS contained the details of TDS, TCS & Advance Tax. However, the scope has been widened subsequently so as to disclose information more than that of Tax and so nomenclature has been changed to "Annual Information Statement (AIS)". It also gives the facility to capture feedback through the online process.*
- *The CBDT has received more than 2.16 crores ITRs for AY 2021-22 and issued tax refunds of INR 64 lakh plus.*
- *The Income-tax department has issued notification No. 129/2021 related to the e-Settlement Scheme 2021.*
- *The CBDT has showcased the latest notification number 131 which is related to the 'Assam building and other construction worker's welfare boards'.*

I am happy on the efforts made by the members of Tax Research Department and the Resource Persons for their incessant efforts. I am glad that such a path breaking publication has reached this height. My best wishes are always there with them.

Jai Hind.

CMA Rakesh Bhalla
17th November 2021

CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Happy is a very small word to describe the feelings I have today on the release of the 100th Edition of the Tax Bulletin. I am more than happy to see that the toil that we have put in together, taking baby steps every time has reached so far that the 100th Edition is seeing the light of the day.

The Bulletin is very close to my heart, it is a good read and an inevitable source of knowledge. The updates that are provided has over and again helped me in all my professional meetings and has evolved me as a better professional. My insights and constructive criticisms have always been taken in a positive stride and as I pen down the journey today all these memories flash in the back of my mind. This time also… I would more professional rather than being more emotional and I would like you to know the highlights of the different decisions taken on the Indirect taxation front this fortnight.

Latest GST Updates by CBIC for Companies & Taxpayers:

- The Union Minister of State, Ministry of Finance, Dr. Bhagwat Kisanrao Karad has presented his opinions about the GST revenue collection for the month October 2021. He compared last year's figure for the same month in GST collection and said that it was the second-highest revenue collection since 1st July 2017. The Oct - 2021 collection was over Rs 1.30 lakh crore.
- The gross GST revenue collected for the month of October 2021 is Rs. 1,30,127 crore of which CGST is Rs. 23,861 crore, SGST is Rs. 30,421 crore, IGST is Rs. 67,361 crore including Rs. 32,998 crore collected on import of goods and cess is Rs. 8,484 crore including Rs. 699 crore collected on import of goods.
- " Exceeding expectations of Rs 1 lakh crore GST collection, we have achieved Rs 1.30 lakh in GST collection. This buoyant GST collection shows we are on the path to economic recovery": Dr. Bhagwat Kisanrao Karad said.
- Kerala High Court has ordered GST Council to make a list of appropriate reasons for not including petroleum products under GST within 10 Days.

There are a few professions that need people to publish books or articles to move ahead in helping their stakeholders in undertaking their professional duties successfully. It is a tough job which consumes time and effort. I congratulate team – Tax Research, for all their commitments and achievements. I am happy to have all the Resource Contributors without whose contributions the Guidance note could not have been completed. I solicit appreciation and acceptance from all the readers.

CMA Chittaranjan Chattopadhyay
17th November 2021

TAXATION COMMITTEES 2020 - 2021

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CMA P. Raju Iyer - Vice-President

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9. CMA Rakesh Sinha (Co-opted)

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ACKNOWLEDGEMENTS

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CMA Amit Sarker	CMA Manmohan Daga
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CMA Shiba Prasad Padhi	CMA Debasis Ghosh
CMA Niranjan Swain	CMA Ajith Sivadas
CMA Navneet Kumar Jain	CMA Sivakumar A
CMA Anil Sharma	

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CMA Tinku Ghosh Das - Deputy Director - Tax Research
CMA Priyanka Roy - Assistant Director - Tax Research
Ms. Mukulika Poddar - Officer - Tax Research
CMA Debasmita Jana - Associate - Tax Research
CMA Amitesh Kumar Shaw - Research Associate
CMA Priyadarsan Sahu - Research Associate

SPECIAL ACKNOWLEDGEMENT

Mr. Dipayan Roy Chaudhuri - Graphics & Web Designer

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Message

The Fortnightly Tax Bulletins provide a repository of knowledge for the professionals, trade, industry and officers. The articles published in the Bulletin cover all the provisions of GST, the latest amendments, and the analysis of the case laws.

I would like to congratulate the Indirect Taxation & Direct Taxation Committee at the Institute of Cost Accountants of India for spreading the knowledge and being part of the nation-building.

The 100th edition of the Fortnightly Tax Bulletin is a milestone for Institute and I congratulate them for taking such a knowledge-sharing initiative.

Neetu
17.12.2021

Commissioner of Commercial Taxes

Mr. Amrit Pal Singh Suri, IRS
Principal Chief Commissioner
Central GST & Central Excise

MESSAGE

A number of measures have been taken by the CGST Department in the recent past to offset the impact of the COVID 19 pandemic on the functioning of the Trade and Industry. Some of the significant welfare measures include the introduction of Quarterly Return and Monthly Payment Scheme, waiver of Annual Returns and Reconciliation Statements for certain categories of taxpayers. Late Fees Amnesty Scheme, facility for withdrawal of the refund claims and payment of interest at concessional rates.

The Institute of Cost Accountants of India has been in the forefront of disseminating these initiatives to the Trade and has been a trusted partner of the Department in facilitating the implementation of these welfare measures by the Taxpayers. The Association has actively co-operated with the Department in not only giving wide publicity to these Trade Friendly Schemes but has also brought the impediments being faced by the Taxpayers to the notice of the Department to enable their expeditious resolution. Collectively, the Association and the Department have been able to successfully send across the message that the Government stands behind the Taxpayers during this pandemic and is conscious to the needs of the Trade.

It is hoped that the collaborative effort, which has been significantly responsible for the smooth implementation of various Schemes, will continue in the future and the Association will continue to offer its support in publicizing the forthcoming measures of the Department to further ease the problems being faced by the Trade.

Mr. Amrit Pal Singh Suri
17th November 2021

GOVERNMENT OF KARNATAKA
(Commercial Taxes Department)

No: ADCOM(e-Gov) MIS/2021-22

Office of the
Commissioner of Commercial Taxes (K),
Gandhinagar,Bengaluru-560 009,
Date: 17/08/2021.

Dear All,

"I want to thank the Tax Research Department for the bulletin on Taxation that I receive every fortnight. I was able to relate to the ways the author talks about his personal experiences and pens down the practical exposures one faces in the Taxation world. The Stake holders are benefited from the recommendations for handling various Tax issues. Getting help from a book is easier to stake holder than discussing problems in our professional field."

In this regard I congratulate the institute of Cost accounts of India for good work.

Thanking you.

(Dr. B.V. Muralikrishna)
Additional Commissioner of Commercial Taxes,
(e-Governance) VTK-1, Bengaluru.

"I would like to thank the Tax Research Department for giving me the Tax Bulletin every fortnight which I fall back on for updating my Taxation Knowledge. I enjoyed reading it because it is brief and crisp addressing the issues right away. I appreciate that the department thought of knowledge seekers like me."

In this regard I congratulate the institute for good work

(H.S. ZIAULLA KHAN)
Addl. Commissioner of Commercial Taxes,
(Zone)-II, Gandhinagar, Bengaluru

Messages from Our Distinguished Readers

Dr. Bose K Nair
President, World Trade Center Shamshabad and Visakhapatnam.

"The rollout of GST, in reality, is a blessing in disguise for the MSMEs / Trade and Industry as it has opened the gates for pan India and made compliances of Indirect Taxes simpler with the same tax rate and classification across the country. At the time of transition to GST, the Fortnightly Tax Bulletins published by the Institute of Cost Accountants of India have helped the trade and Industry decode the provisions and enabled them to make necessary changes for the business process. I am very glad that the 100th edition of the Tax Bulletin is being released. The continuous publishing of Tax Bulletin during the time of unprecedented lockdowns shows the commitment and professionalism of the Institute and the CMAs. I congratulate the Institute and its members for disseminating knowledge and helping the economy be on a trajectory path."

CMA Debajit Sen
Director - Finance
Marathon Electric Motors (India) Ltd.

"Congratulations to the ICMAI Tax Research team on reaching the grand milestone of publishing 100th Edition of the Tax Bulletin.

These Tax bulletins immensely help the members, students and other tax professionals to gather and update their knowledge of both Indirect and direct taxation.

Thanks again to the team for the excellent job done."

CMA M.S.Mani
Partner – Deloitte India

"Developments in tax over the past few years have made it necessary for all finance professionals to keep abreast of these changes at all times- I rely on the Tax Bulletin of ICMAI to ensure that there are no changes that I have missed out on in course of my regular reading. The presentation of the Tax Bulletin as well as its rich contents make it my go-to publication in order to keep in touch with tax changes".

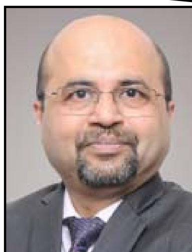
CMA Amitabh Banerjee
Chairman and Managing Director,
Indian Railway Finance Corporation Ltd.

"I am delighted to know that Tax Research Department of Institute of Cost Accountants of India is bringing out the Grand 100th Edition of its fortnightly "Tax Bulletin".

The Bulletin has been a pioneer, since its inception in October 2017, in making the stakeholders aware of all the important aspects of both direct and indirect taxation including GST, filing of returns, TDS, customs, central excise and other taxation related issues.

After the implementation of GST in India in July 2017, the Bulletin has been an invaluable resource for the stakeholders, particularly those interested in staying up to date with tax-related matters. And I must say the Tax Bulletin has been incredibly successful in achieving the objective of creating awareness amongst the readers about the important developments related to taxation system in the country.

I hope the Tax Research Department of ICMAI continues to carry out such path breaking work and empowers its readers with such valuable information and analysis in the years ahead. I wish the department all the success for its future endeavours."

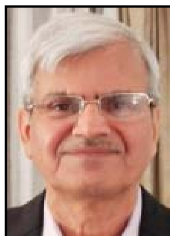


CMA Rahul Renavikar

Managing Director

Acuris Advisors Pvt Ltd

"My sincere thanks to the Tax Research Department for putting together a humongous effort of providing a very crisp and to the point update of taxation issues. Professionals like me find the Tax Bulletin very relevant and handy for updating the knowledge of taxation matters."



CMA Ramnivas Laddha

Ex - CFO

Maharashtra Scooter Ltd.

"It gives me immense pleasure to know that our The Institute of Cost Accountant of India will be bringing out 100th Volume of Tax Bulletin.

We eagerly wait to receive each and every volume of Tax Bulletin that provides us information about tax notifications, judgements, etc on indirect and direct taxations. These help us understand all the relevant information at one place, expressed in a simple and easy to comprehend format and serves as a ready reckoner on all taxation issues."

I congratulate the Chairman and Members of Indirect and Direct Committees and Tax Research Contributors on the eve of release of the 100th Volume.."

CMA Siba Prasad Kar
Sr. General Manager (Finance)
TPCODL, BHUBANESWAR

It is matter of great pleasure that Tax Research Department is publishing its 100th edition of Tax Research Bulletin. I congratulate & appreciate the earnest effort of the Tax Research Department, Council Members and Supporting Staffs of the Institute to bring the same. I am quite confident that, the Tax Research Bulletin will be very much helpful to the Members and Stakeholders for sharpening their knowledge bank specifically in the taxation era.

I convey my heartiest greetings to the Professional Stalwarts of the Council for their innovative initiative and also convey my best wishes for overall growth and contribution by the TRD for enhancing further brand building/visibility of CMA Profession.

CMA Bikram Keshari Das
G.M (Finance)
NLC India Ltd, Puducherry

"I am happy to know that, The Institute of Cost Accountants of India - Tax Research Department is bringing out 100th edition of Tax Research Bulletin for updating the knowledge in Taxation for Members, Students and Stakeholders. I am sure that, the said Tax Research Bulletin will be very much helpful instruments for enhancing further branding / visibility of CMA Profession.

I convey my sincere thanks to the entire Team of the Institute for their effort for bringing out Tax Research Bulletins starting from 1st edition to 100th edition. My Best wishes for overall success of the Publication and the Institute."

CMA Umesh Dongre, Director (Finance),

Rashtriya Chemicals and Fertilizers Ltd

"I appreciate the efforts of the Tax Research Department in publishing Tax Bulletin every fortnight which is very useful for taxation knowledge. The lucid language and method of addressing the issues is very appropriate. The Department deserves all appreciation for their efforts."

CMA Thomas Mathew
CEO, Odisha Capital Market & Enterprises Ltd.

Bhubaneswar, Odisha

"It is a great pleasure to learn that, Tax Research Department is bringing out the 100th edition of Tax Research Bulletin for the betterment of the Members, Students and Stakeholders for sharpening Taxation updates. It is pertinent to say that, this instruments shall be very much helpful to enhance branding / visibility of the Institute/CMA Profession. I appreciate the earnest effort of the Council Members and Executives of the Institute who have given their earnest effort since long till bringing its centenary (100th edition)

I convey my best wishes for the Success of the Publication and overall growth of the Institute."

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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.ad1@icmai.in

D. Sri Nagesh
Superintendent of Central Tax

CREDIT NOTES AND INTEREST PAYMENT

Issuance of Credit Notes and Debit Notes are integral part of any business in case where there is a reduction or increase in taxable value of the goods or services or both. Goods and Services Tax (GST) law is in tune with the business needs with regard to issuance of Credit Notes and Debit Notes and made elaborate provisions for accommodating the business scenarios. In this Article I would like to discuss the issue of Credit notes and its implication on 'Input Tax Credit' ('ITC' for short) availment or reversal by the receivers of the Credit notes issued by the suppliers.

Section 34 of CGST Act, 2017 deals with issuance of Credit Notes and Debit Notes. As per Section 34 (1) of CGST Act, 2017 Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

On vivisection of the Section 34(1) of CGST Act, 2017, the following are the scenarios wherein the supplier is obligated to issue Credit notes: for the following reasons:

i. Taxable Value charged for the supply in the tax invoice is found to exceed the taxable value;

ii. Tax charged in the invoice is found to exceed the tax payable in respect of such supply;

iii. Goods supplier are returned by the Recipient of the goods;

iv. Goods or Services or both supplied are found to be deficient

Due to the above reasons, the supplier may issue to the recipient one or more credit notes for the supplied made in a Financial Year containing the particulars as prescribed. The particulars to be incorporated in the Credit Notes have been notified under Rule 53(1A) of CGST Rules, 2017. The particulars to be incorporated are summarized hereunder:

a) Name, address and Goods and Services Tax Identification Number of the supplier;

b) Nature of the document;

c) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;

d) Date of issue of the document;

e) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

f) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

g) Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

i) Signature or digital signature of the supplier or his authorised representative.

On verification of the above provisions, it is clear that the Credit Notes will be issued by the suppler of the goods or Services or both in case the supplier is required to decrease the Taxable Value, decrease the Tax charged in the invoice, reduction of Taxable value due to short-receipt, reduction in Taxable Value due to deficiency in the Goods or Services supplied. In all the cases, the supplier has to reduce the value of the taxable value Goods or Services or both supplied due to reasons mentioned above. Since there is a reduction in Taxable value of the goods or services, the proportionate reduction in tax paid is also to be adjusted.

Section 34(2) of CGST Act, 2017 has provided the ways and means for declaration of Credit notes by the supplier and adjustment of the tax liability. As per Section 34(2) of CGST Act, 2017 any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. As per proviso to the above, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Therefore, as per Section 34(2) of CGST Act, 2017 the supplier can adjust the tax liability in case a credit note is issued in relation to a supply during the month in which such supply was made but not later than September following the end of the Financial Year in which such supply was made.

Section 15 of CGST Act, 2017 deals with valuation of taxable supplies. As per Section 15(3)(b) of CGST Act, 2017 the Value of the Supply shall not include any discount which is given after the supply has been effected if (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices and (ii) input tax credit as is attributable to the discount issued by the supplier has been reversed by the recipient of the supply.

As per Section 15(3)(b) of CGST Act, 2017 Value shall not include discounts know after the supply has been effected if satisfies the following conditions viz. Discount is established in terms of an agreement

entered into at or before time of supply and linked to supply and ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by recipient of the supply.

On reading the provisions of Section 15 of CGST Act, 2017 and Section 34 of CGST Act, 2017 in tandem, the supplier is allowed to reduce the tax liability in case of reduction of value by way of issuance of Credit notes only when the receiver has reduced the applicable ITC availed pertaining to such supply. Now the point for further discussion is with regard to late reversal of ITC by the recipient of such credit notes.

As discussed above, the supplier can adjust the tax liability in case a credit note is issued in relation to a supply during the month in which such supply was made but not later than September following the end of the Financial Year in which such supply was made. Now the two situations will arise viz. (i) Credit note issued in the month of supply and reduction of value of taxable supplies and (ii) Credit notes issued subsequent month not later than September following the end of the Financial Year. For both the cases, the reduction of ITC is compulsory for adjustment of tax by the supplier. If the supplier has reduced the tax liability and the receiver has not reversed the ITC for the whole year, then the excess ITC availed by the recipient, based on the original invoices, is an undue ITC availed by the recipient since the supplier has less paid to the Government as the excess ITC corresponding to the Credit notes was adjusted from the taxable value of supplies made by him. If any undue or excess credit is availed by the recipient, the same is recoverable along with interest and penalty under the provisions of Section 73 of CGST Act, 2017 or Section 74 of CGST Act, 2017.

In view of the above discussion, it is clear that ITC reversal is mandatory mandate for the receivers of the supplies with regard to Credit notes issued by their suppliers and all provisions of relating to recovery of ITC will follow automatically.

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INSOLVENCY PROCESS AGAINST THE TAXPAYER AND PROVISIONS OF GST THEREOF

The Insolvency and Bankruptcy Code, 2016 (IBC) is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The Insolvency and Bankruptcy Code, 2015 was introduced in Lok Sabha in December 2015. It was passed by Lok Sabha on 5 May 2016 and by Rajya Sabha on 11 May 2016. The Code received the assent of the President of India on 28 May 2016. Certain provisions of the Act have come into force from 5 August and 19 August 2016. The bankruptcy code is a one stop solution for resolving insolvencies which previously was a long process that did not offer an economically viable arrangement. The code aims to protect the interests of small investors and make the process of doing business less cumbersome.

Liability prior to the period of appointment of CIRP

Any tax liability of Goods & Service Tax and taxes under earlier laws, which are subsumed in GST namely Central Excise Act 1944, Finance Act 1994 (For Service Tax), Central Sales Tax, Maharashtra Value Added Tax 2002 / State Value Added Tax, Luxury Tax, Entertainment Tax & Amusement Tax, Local Body Tax, Duties of Excise (Medicinal and Toilet Preparations), Additional Duties of Excise (Goods of Special Importance) , Additional Duties of Excise (Textiles and Textile Products), Cesses and surcharge in so far as they relate to supply of goods and services, Taxes on advertisements, Taxes on lotteries, betting and gambling , State cesses and surcharges in so far as they relate to supply of goods and services etc. etc. has to be borne by the company and dues has to be settled as per the provisions of Section 53 of Insolvency & Bankruptcy Code 2016, which is reproduced below:

Quote :

53. Distribution of assets:

1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period as may be specified, namely:-

    a) the insolvency resolution process costs and the liquidation costs paid in full;

b) the following debts which shall rank equally between and among the following:

   i. workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and

   ii. debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;

c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;

d) financial debts owed to unsecured creditors;

e) the following dues shall rank equally between and among the following: -

   i. any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;

   ii. debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;

f) any remaining debts and dues;

g) preference shareholders, if any; and

h) equity shareholders or partners, as the case may be.

2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.

3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.

   Explanation. – For the purpose of this section-

   i. it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and

   ii. the term "workmen's dues" shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).

Un-Quote

Further, CBIC also calrified in the circular no 134/04/2020-GST dtd 23.03.2021 that In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.

Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.

Therefore, it is very important to determine and crystalized duty liabilities prior to appointment of CIRP period and such claim has to be accepted by respective department.

1) Post appointment of CIRP Period:

In terms of provisions of IBC 2016, Resolution Professionals, so appointed is solely responsible for managing the affairs of the company including statutory compliances of corporate debtors, which includes filing of returns and payment of tax dues. However, most CDs defaulted in filing of GST returns and/or payment of dues at the commencement of CIRP. This made it impossible for IRP/RP to file GST returns and discharge dues for the CIRP period. Based on some of the judicial pronouncements, the GST department directed acceptance of GST returns in hard copies from IRP/RP. However, there was no uniform approach and the IRP/RP struggled to comply with filing requirements of GST returns Under an IBC, an IRP/RP has the responsibility for managing affairs including statutory compliances of the corporate debtor (CD). This includes filing of returns and payment of tax dues. However, most CDs defaulted in filing of GST returns and/or payment of dues at the commencement of CIRP. However, there was no uniform approach and the IRP/RP struggled to comply with filing requirements of GST returns. However, GST Registration prior to the appointment of CRP period should not be cancelled. It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.

Returns for Pre-appointment of CIRP to be filed by earlier management and RP should not file the return for pre-appointment period. It has been clarified in the circular by CBIC in accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.

Need of New Registration :

Considering the difficulties as mentioned above faced by Resolution Professionals, government issued the Notification No. Notification No. 11/2020 Central Tax dtd 21st March 2020 specifying the separate procedure for registration, Return, Input Tax Credit and also clarified the same vide Circular No.134/04/2020-GST dtd 23rd March 2020.

Registration:

In terms of the said Notification, IRP / RP was treated as distinct person of a corporate debtor and made liable to take new registration of each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. However, in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.

GST procedures for corporates under IBC

Under an IBC, an IRP/RP has the responsibility for managing affairs including statutory compliances of the corporate debtor (CD). This includes filing of returns and payment of tax dues. However, most CDs defaulted in filing of GST returns and/or payment of dues at the commencement of CIRP. This made it impossible for IRP/RP to file GST returns and discharge dues for the CIRP period. Based on some of the judicial pronouncements, the GST department directed acceptance of GST returns in hard copies from IRP/RP. However, there was no uniform approach and the IRP/RP struggled to comply with filing requirements of GST returns Under an IBC, an IRP/RP has the responsibility for managing affairs including statutory compliances of the corporate debtor (CD). This includes filing of returns and payment of tax dues. However, most CDs defaulted in filing of GST returns and/or payment of dues at the commencement of CIRP. This made it impossible for IRP/RP to file GST returns and discharge dues for the CIRP period. Based on some of the judicial pronouncements, the GST department directed acceptance of GST returns in hard copies from IRP/RP. However, there was no uniform approach and the IRP/RP struggled to comply with filing requirements of GST returns

Need for separate GST registration

A registered person (referred to as erstwhile/existing registered person), who is CD under the provisions of IBC and presently undergoing CIRP, shall be liable to obtain new registration (referred to as new registered person) in each of the states/UTs where it was registered earlier, within 30 days of the appointment of IRP/RP and in case, where the IRP/RP was appointed prior to the issuance of this notification, then within 30 days of the issue of this notification. Recently, CBIC has extended [3], the due date for obtaining new registration is 30 June 2020.

The CBIC has further clarified that existing registration of an entity for which CIRP has been initiated should not be cancelled. If required, the proper officer (PO) may suspend the registration. However, where the registration of an entity undergoing CIRP has been cancelled already and the period of revocation of cancellation (i.e., 30 days from the date of service of cancellation order) has not yet lapsed, then such cancellation order needs to be revoked.

How to file First Return after obtaining new registration

The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.

Relaxation measures amidst COVID-19

Initially, insolvency filings could be initiated against the amidst the coronavirus pandemic, the default threshold company/LLP failing to make the payment above INR 1 lakh. limit has been raised to INR 1 crore to prevent triggering all However, in order to bring some relief to the company/LLP insolvency filings.

How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP?

In terms of the aforesaid notification to avoid the losses and avoid the cascading effect of tax due to a taxpayer, where IRP / RP has been appointed. Input tax credit accumulated in earlier GST registration

of pre-appointment period should not get lapsed and invoices where old GST number is appearing, ITC should not be deprived of. Therefore, law has been amended.

Input tax credit:

(1) The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the

Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

(2) Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

(3) Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation.- For the purposes of this notification, the terms "corporate debtor", "corporate insolvency resolution professional", "interim resolution professional" and "resolution professional" shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40.

The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020- Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.

The CBIC has further clarified that the above exception has been made only for the first returns filed under the relevant GST Legislation.

Illustration:

ABC Ltd. is registered under GST in Maharashtra and is undergoing the CIRP process. IRP was appointed on 1 April 2020. Company applied for new registration in Maharashtra and the same was duly granted on 2nd April 2020. Company received supplies with invoices dated 2 February 2020 and 3 April 2020 carrying ITC under IGST amounting to INR 45 lakh and INR 90 lakh respectively bearing the erstwhile registration of entity. What would be the eligible ITC under both the erstwhile and new registration of ABC Ltd., considering the recent amendments made under GST law?

Solution:

The new registration was availed within the period prescribed in the notification.

Therefore, the IRP shall avail only the ITC accrued since the date of his appointment in the first return to be filed for the new registered person. Accordingly, ITC of INR 90 lakh will be available to the new registered person in its first return. ITC of INR 45 lakh pertaining to the prior period may be eligible under the registration of erstwhile registered person; however, there are no specified procedures with respect to its availment, adjustment/utilisation.

Further, the registered buyers receiving supplies from the new registered person will be eligible to avail the ITC on invoices issued using the GST details of erstwhile registered person on or after the date of appointment of IRP/RP till the date the new registration is granted or 30 days from the date of this notification, whichever is earlier, subject to provisions of the ITC.

Balance in electronic cash ledger

Any amount deposited by IRP/RP in the electronic cash ledger of erstwhile registered person shall be eligible for refund. However, the refund shall be eligible, only if the amount has been deposited after the date of appointment of IRP/RP till the date the new registration is granted.

Illustration:

Under the erstwhile registration, the IRP/RP has deposited an amount of INR 20 lakh under the IGST head of electronic cash ledger on 31st March 2020. What shall be the correct treatment considering the procedures recently notified by the government?

Solution:

Any amount deposited in electronic cash ledger of erstwhile registered person from the date of appointment of IRP/RP to the date the new registration is granted shall be eligible for refund. Accordingly, an amount of INR 20 lakh deposited on 31st March 2020 will be eligible for refund in the erstwhile registration under 'refund from electronic cash ledger'.

The CBIC has further clarified that erstwhile registered person can file refund application under the head 'refund from electronic cash ledger', even though the relevant Form GSTR-3B/GSTR-1 is not filed for the said period.

Important Takeaways:

1) When IRP has been appointed and approved by NCLT, the date of order of such approval will be the relevant date for the purpose of determination of dues, pre-IRP period and any govt. dues will be paid in accordance with provisions of Section 53 of Insolvency & Bankruptcy Code 2016.
2) IRP is not accountable for non-filing of returns or any non-payment of taxes pre-approval period
3) RP is required to take new registration within 30 days of his appointment and such new registration will be treated as a distinct entity
4) IRP / RP is accountable for compliances under GST Law including penal provisions
5) Accumulated ITC pre-IRP period can be carried forward in the new GST registration, which is obtained post CIRP period.
6) During the transitional period, but prior to the date of registration, obtaining the registration by IRP, any invoices of inward supplies on which GST is charged, ITC will be allowed in the new registration during the period of RP.
7) It is utmost important to determine the duty liability for the prior period of appointment of IRP/RP.

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AN INSIGHT ON A GOODS & SERVICE TAX (GST) ON BUSINESS OF OIL & GAS SECTOR IN THE CONTEXT OF CERTAIN PETROLEUM PRODUCTS KEPT OUT OF GST & EXPLORE WAY FORWARD TO DEVELOP SUITABLE TAX STRATEGY TO ACHIEVE TAX EFFICACY AND ECONOMIC PERFORMANCE OF INDIA

The goods & Service Tax (GST) was introduced in India from July 1, 2017 which subsumed all indirect taxes levied by the Central & State Government. So far Oil & Gas industry is concerned, Goods out of GST Includes:-Petroleum Crude, High Speed Diesel Oil, Motor Spirit Natural Gas &Aviation Turbine Fuel. Goods included in GST:-Naphtha, Fuel Oil, and Kerosene Liquefied Petroleum Gases (LPG)

Hearing a public interest litigation (PIL) in case of Kerala Pradesh Gandhi Darshanvedhi Vs Union of India (Kerala High Court) .Kerala High Court directed the GST Council to explain reasons for not including petrol and diesel within the ambit of GST on 21.6.2021. Plea taken by the petitioner reads:-

Prices of petrol and diesel vary in different states as tax levied by them was different and sought a uniform tax regime for petroleum product. Different rates of tax levied by the State governments under their fragment taxing policies, currently petrol and diesel were charged differently across the country. *This was an impediment in the way of achieving a harmonized national market as contemplated under Article 279 of the Constitution& non-inclusion of petrol and diesel under the GST regime are violative of the Article 14 and 21 of the constitution,*

Union and state governments plead helplessness in this citing petroleum marketing companies, both enthusiastically participated in the reduction of fuel price prior to elections. The rise in price of petroleum products had a cascading effect on all commodities, including essential ones, leading to an increase in the cost of living, both in rural and urban areas. In fact, the prices of fuel need to be rationalized. It also said the state and central taxes will account for at least 60 per cent of the price of one liter of fuel. Earlier, the counsel for both union and state governments opposed the PIL saying the fuel price regime was part of a policy decision and the judiciary can't intervene.

However, Constitutional Court has casted a constitutional duty upon the GST Council to make a serious recommendation to include both (petrol and diesel) in GST. Though oil companies had no choice but to fix the prices as per the global market rate for crude oil, the higher rate of tax levied by the Centre and the State Government was impacting fuel prices. The present situation was ripe enough to take a decision in this regard as the price of petrol and diesel was surging on a day-to-day basis and had a crippling effect on the economy.

Analysis of legal position:-

Article 279A in constitution of India provides that GST council will make recommendation to Union & State relating to GST .Decision of GST council will be taken with at least 75% of weighted average voting in favors of the decision . Union Government will have 33.33% voting power and state will have 66.67 % voting power. So The Recommendations of GST council have some effect but not legally binding on State/ Central Government.

GST council & finance ministry have yet not responded to the plea of bringing petrol& Diesel under the GST ambit. In fact, the government' rationale behind not including fuel in GST was to insulate states from loss of revenue.

Is GST the solution then? Inducting petroleum products in GST does really ague for good economics? Whether such move will take a major hit on revenuers to sate exchequer? What is the way forward?

International VAT/GST Guidelines by Organization for Economic Co-operation and Development (OECD)

Value Added Tax (VAT; also known as Goods and Services Tax, under the acronym GST in a number of OECD countries) has become a major source of revenue for governments around the world. Some 165 countries operated a VAT has adopted the International VAT/GST Guidelines in 2016, This central design feature of the VAT, coupled with the fundamental principle that the burden of the tax should not rest on businesses, requires a mechanism for relieving businesses of the burden of the VAT they pay when they acquire goods, services, or intangibles. There are two principal approaches to implementing the staged collection process while relieving businesses of the VAT burden, thus permitting successive taxpayers to deduct the VAT they pay on their purchases while accounting for the VAT they collect on their sales.

In general, OECD jurisdictions with a VAT impose the tax at every stage of the economic process and allow deduction of taxes on purchases by all but the final consumer. This design feature gives to the VAT its essential character in domestic trade as an economically neutral tax. India being member of OECD has not revisited the guidelines. These generally accepted *principles of tax policy* includes:-

Neutrality: Business decisions should be motivated by economic rather than tax considerations. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation

Efficiency: Compliance costs for businesses and administrative costs for the tax authorities should be minimized as far as possible.

Certainty and simplicity: The tax rules should be clear and simple to understand so that taxpayers can anticipate the tax consequences in advance of a transaction, including knowing when, where, and how the tax is to be accounted.

Effectiveness and fairness: Taxation should produce the right amount of tax at the right time. The potential for tax evasion and avoidance should be minimized while keeping counteracting measures proportionate to risks involved.

Flexibility: The systems for taxation should be flexible and dynamic to ensure that they keep pace with technological and commercial developments

Synopsis of study of Analysis:-

Government is under Horns of dilemma for developing a suitable tax strategy to bring petroleum to include crude petroleum, natural gas, petroleum products and electricity under the GST system. Keeping Petroleum& Electricity will result cascading tax effects which has Bering on the Economic Performance in across the sectors. The degree of cascading will vary across the sectors depending on their direct as well as indirect (inputs embedded in outputs of other sectors) input use. Eight core sector industries are coal, crude oil, natural gas, refinery products, fertilizers, steel, cement and electricity. The eight core sector industries represent about 40% of the weight of items that are included in the IIP.The eight core industries in decreasing order of their weightage: Refinery Products> Electricity> Steel> Coal> Crude Oil> Natural Gas> Cement> Fertilizers. Challenges under GST regime – Restricted Flow of Credit by blocking CENVATChain across the industry which is affecting Economic Performance of Country as a whole.

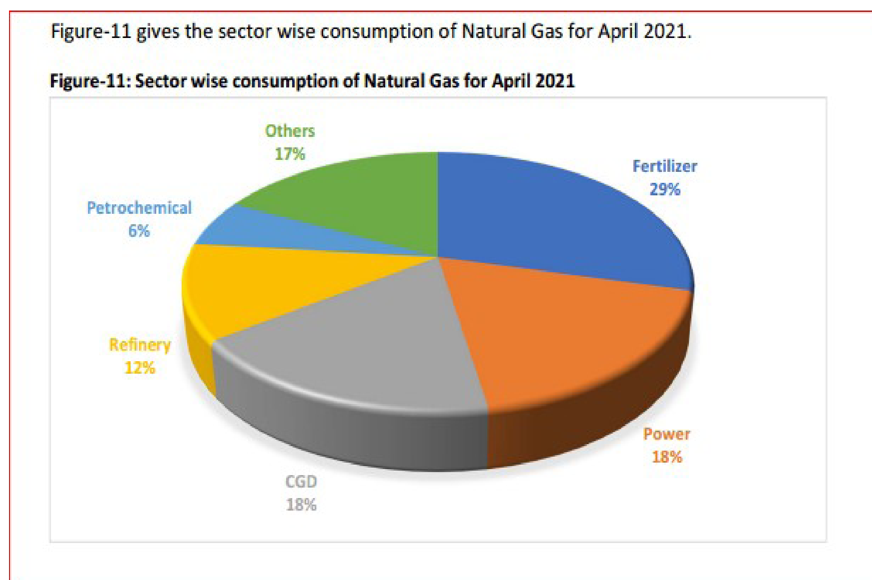

Figure-11 gives the sector wise consumption of Natural Gas for April 2021.

Figure-11: Sector wise consumption of Natural Gas for April 2021

Policy Options for including Petroleum, Natural Gas and Electricity in the Goods and Services Tax to achieve not only tax efficiency, but optimum Economic Performance of Country by Core & Other sector

An insight on the impact of keeping these items(crude petroleum, natural gas, motor spirit (gasoline/ petrol), high-speed diesel (diesel), aviation turbine fuel and electricity) out of the input tax credit mechanism (either partially or fully) would result in implications for cascading.. It captures the degree of cascading across major 48 sectors under different scenarios.

The tax on petro-leum products and corresponding change in prices generates both direct and indirect effects across the sectors. Petroleum products directly enter as an input into a large number of economic activities (e g, transportation, and electricity generation and fertilizer production). Apart from such

direct uses, there are a number of indirect uses as well. For instance, since most com- modifies need to be transported for use by the final consumer, petroleum products enter into the picture. Therefore, changes in prices (or taxes) of petroleum products would have a significant impact on the economy both through direct as well as indirect or cascading routes.

In other words, inputs going into the extraction of crude petro- leum would remain embedded in the costs of exploration and production of crude and passed on to refineries. Similarly, when petrol, diesel and aviation turbine fuel (ATF) are kept out of the VAT/GST system, the taxes associated with inputs used for production of these goods would remain embedded. This results in cascading. Since petroleum products are used as inputs in a large number of industries in the economy cas- cading would have widespread impact.13 Flow of uncredited input taxes in the proposed regime of GST is demonstrated in Figure 1.

Figure 1: Input Tax Credit Pass-through Mechanism (6 Sector Model)

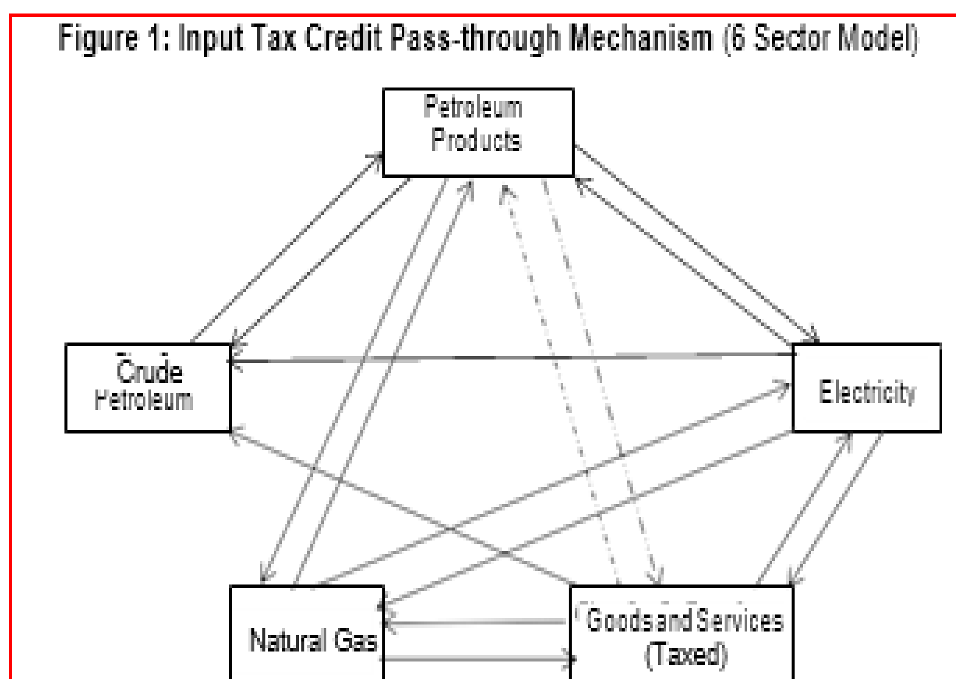

Table 4: Input Tax Credit Claimed against Central and State Taxes (Rs Crore): 2010-11[#]

Central Taxes		State Taxes		Total
Value of purchase of goods and services (Rs crore) (A)	61,719	Value of purchase of goods (Rs crore) (A)	10,004	71,723
Percentage share in total value of purchase (%) (B)	86.05	Percentage share in total value of purchase (%) (B)	13.95	
Excise duty (ED)/service tax (ST) charged	5,769	VAT and CST paid	565.1	6334.1
CENVAT setoff of excise duty/service tax	3,342	Input tax credit (ITC) claimed	285.2	3627.2
Weighted ED/ST set off (%) (C)*	61.4	Weighted VAT setoff (%) (C)*	47.6	
Final weighted effective tax rate (%)@ (D) [(B)*(C)/100]	52.84	Final weighted effective tax rate (%)@ (D) [(B)*(C)/100]	6.64	59.48

This is based on company-wise information provided in NIPFP (2011). * Weights are based on company-wise share in total value of purchase.

@ Weights are based on share in total value of purchase.

Source: - NIPFP 2011

From the above TABLE of NIPEP, we could conclude that petroleum companies on an average claim 60% of total tax paid to Central & State Government as Input Tax Credit (ITC), the rest is their stranded costs in Pre –GST regime. Some sates allow petroleum companies to avail ITC against their purchase of inputs (Good). The % of setoff availed by companies vary depending on the states where companies are operating and their input and output baskets.

Extent of cascading for a sector depends not only tax treatment of the sector but pn overall indirect tax structure of the economy.

Revenue short fall under GST is not conducive for fiscal sustananity. Such shortfall arises due to problems associated with (a) design and structural issues related to GST (b) Policies & practices of GST administration (c) Tax Compliances & finally (d) Not following OECD Guidelines on VAT /GST Guidelines by India despite being a member .

The revenue deficit of states, cascading effects & flow of input credit across the sectors for a sustainable Economic performance can be achieved by rationalization of all GST rates, addressing various challenges faced by Oil, GAS & other Core sectors due to limitations of flow less credit .

The Revenue Neutral rates could be maintained by keeping Crude Petroleum , Natural gas , Petroleum Products and electricity within ambit of GST .Estimation of Revenue Nutral rates is to be done state wise impacts depending on composition of economic activities , different sates will have different impact of taxations on petroleum products .States having larger share in sector with greater cascading impacts will have larger impacts .

Conclusion :

Since globalization & Automation of all industrial sector is the key parameters for Economic Performance, India must raise to the occasion to make an evaluation of existing business model of Oil & Gas sector as well as Expiring GST model to be redesigned & structured the in alignment of International VAT /GST guidelines to be business leader in international & domestic market. The same will give long term suitability to all industry, more particularly in international trade. The same will pave the way for fair taxation, one nation one tax, easy of doing business for economic performance of industry as a whole.

So government of India should consider restructuring of GST laws by following the basic principles of Taxation, implement international VAT /GST guidelines in latter & amp; spirit. Such welcome move will not only to achieve tax efficiency in business, but for improving Economy of India by facilaiting Economic performance in all core & other sector.

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INTERMEDIARY SERVICES AND ITS TAXATION UNDER THE GOODS & SERVICE TAX REGIME

With the continuous evolvement of trade both global and national, the gradual broad based emergence of intermediary service providers has gained big momentum. These intermediary service providers make significant contribution to economic growth by way of bringing suppliers and recipients of goods and services into contact with each other for the execution of an economic transaction. Although the concept of "intermediary services" was well defined and clarified as well under the service tax regime that got carried forward in the GST regime, there have been divergent advance rulings as to what would constitute an ' intermediary service' so as to come within the ambit of indirect taxation. This is primarily for the reason that in terms of section 13 of the IGST Act, 2017, the place of supply of services, where location of supplier or location of recipient is outside India, is the location of the intermediary. The actual challenge in the taxation of 'intermediary services' lies in the fact as to whether a service provided by an intermediary would be taxable or not being an export of service in as much as for intermediary services supplied and received within India , the services are liable to GST.

The issue is critically relevant in the context of cross border transactions in as much as if such intermediary services are subject to GST, then the services become costlier to the extent of the GST element contained therein and consequently become competitive in international market. Here it would also be relevant to take note of Notification 9/2017(IGST) (R) dated 28th June 2017 as amended. In terms of serial number 12AA of the said notification, where the supplier and recipient of goods are both located outside India then the intermediary services supplied are exempt from the levy of GST subject to fulfilment of certain conditions.

As far as advance rulings are concerned, reference is made to the following rulings:

- In VservGlobal (P.) Ltd, where back office administrative and accounting support services including payroll processing were provided to the overseas client by the applicant, It was ruled by the Authority for Advance Ruling and upheld by the Appellate Authority that the services were "Intermediary services" and place of supply of services was considered to be India and GST payable.
- On the contrary, in Nes Global Specialist Engineering Services P Ltd,it was ruled by the Authority for Advance Ruling that administrative and support services supplied to a foreign client, where payment is received in foreign exchange is export of service.

- Similarly in Go Daddy India Web services P Ltd. , where the assessee was providing marketing and promotion services and in addition were also providing services of supervision of call center services and payment processing services to its foreign principal. It was ruled that the place of supply of service is outside India and tax is not payable.

In the background of the different sets of conflicting advance rulings as cited herein above, the Central Board of Indirect Tax & Customs (CBIC) vide circular dated 20th September 2021 has sought to clarify as to what would constitute 'intermediary service' under the GST statute.

'Intermediary' has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST" Act) as under–

"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."

It has clarified therein that to qualify as 'intermediary services', the following requirements are to be fulfilled:

- By definition, an intermediary is someone who arranges or facilitates the supplies of goods or services or securities between two or more persons. It is thus a natural corollary that the arrangement requires a minimum of three parties, two of them transacting in the supply of goods or services or securities (the main supply) and one arranging or facilitating (the ancillary supply) the said main supply. An activity between only two parties cannot therefore be considered as an intermediary service. An intermediary essentially "arranges or facilitates" another supply (the "main supply") between two or more other persons and, does not himself provide the main supply.

- There are two distinct supplies in case of provision of intermediary services;(1) Main supply, between the two principals, which can be a supply of goods or services or securities;(2) Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals. This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply. A person involved in supply of main supply on principal to principal basis to another person cannot be considered as supplier of intermediary service.

- Intermediary service provider to have the character of an agent, broker or any other similar person. The definition of "intermediary" itself provides that intermediary service provider means a broker, an agent or any other person, by whatever name called....".This part of the definition is not inclusive but uses the expression "means" and does not expand the definition by any known expression of expansion such as "and includes". The use of the expression "arranges or facilitates" in the definition of "intermediary" suggests a subsidiary role for the intermediary. It must arrange or facilitate some other supply, which is the main supply, and does not himself provide the main supply. Thus, the role of intermediary is only supportive.

- Intermediary does not include a person who supplies such goods or services or both or securities on his own account. It implies that in cases where in the person supplies the main supply, either fully or partly, on principal to principal basis, the said supply cannot be covered under the scope of "intermediary".

- Sub-contracting for a service is not an intermediary service. The supplier of main service may decide to outsource the supply of the main service, either fully or partly, to one or more sub-contractors. Such sub-contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers and therefore, clearly is not an intermediary.

The aforesaid clarification of the CBIC has been illustrated with instances of transactions and is expected to settle the anomalies that are occurring in the interpretation of intermediary services in the process reducing litigation and not depriving the suppliers of services the benefit of export of services where eligible.

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TAXATION IMPLICATION CRYPTO CURRENCIES IN INDIA: SOME THOUGHTS

Trade and Commerce play a vital role in the progress of any country's economy. Trade started about 1,50,000 years ago, and in the initial days of trade, goods and services were exchanged. Over a period, bater has been replaced with physical currency. The currency issued by various Federal Governments is of two types, Gold Standard. The currency which is backed by the quantity of gold equivalently is known as Gold Standard. The other category is Fiat System. In this, the currency system is not backed by any Gold reserves. They are open to be issued, and the demand and supply determine the currency's value. US dollars is the classic example for the Fiat system-based currency, and Indian Rupee is the example for the Gold Standard.

With the adoption of digitization, physical currency is being replaced with digital transactions. As per the latest information available with the National Payments Corporation of India, the number of transactions recorded using the UPI-based payment during Oct 2021 is 4.21 billion, amounting to US 100 billion dollars. Cryptocurrencies are the new buzzword in the market.

Cryptocurrency

The word "cryptocurrency" is derived from the encryption techniques which are used to secure the network. Cryptocurrency is a digital currency used over the internet to purchase goods or services or traded for profit. Cryptocurrencies are created using a technology called the blockchain. Blockchain is a decentralized technology spread across many computers that manage and records transactions.

Cryptocurrencies are fiat currency, and any Federal Government in the world do not regulate them. Though the cryptocurrencies are claimed to be safe, there were instances where millions of cryptocurrencies were stolen and used by anti-national forces. Some experts claim that Cryptocurrencies are the future of finance as the transfer of funds between two parties is instantaneous. There is no involvement of third parties like banks or financial institutions. The transfer happens with minimal charges compared to the traditional banking channels. The transfer happens through a combination of public and private keys.

In the cryptocurrencies world, they are termed public keys as they are public-facing, i.e., the address to which the cryptocurrencies are received. They are tagged with a public address like a country, city, street name, and house number. The public keys are based on a complex mathematical algorithm. Private Keys are like the password for the wallets, and the fund transfer happens on a combination of the public and private keys.

The cryptocurrencies started in 2009 with the introduction of **bitcoin.** The value of cryptocurrencies fluctuates on day to day basis. As per CoinMarketCap.com there are about 13K+ cryptocurrencies that are traded in the market. List of the top 10 cryptocurrencies with the highest market capitalization as per CoinMarketCap.com as of 8th Nov 2021.

Sr. No	Cryptocurrency	Market Capitalization
1	Bitcoin	$1.2 trillion
2	Ethereum	$557.2 billion
3	Binance Coin	$107.7 billion
4	Solana	$73.6 billion
5	Tether	$72.6 billion
6	Cardano	$67.4 billion
7	XRP	$58.5 billion
8	Polkadot	$52.1 billion
9	Dogecoin	$36.5 billion
10	USD Coin	$34.3 billion

Legal Status

Though cryptocurrencies are used very widely in many countries, it is yet to be declared or notified as legal tender. As of the date on El Salvador is the only country that has declared cryptocurrencies as legal tender. Now in El Salvador, the citizens can buy any goods or services using bitcoins or pay taxes. It also offers citizenship if anyone purchases three bitcoins.

In India, investors trading in bitcoins is very high though it is not legal tender. The recent Honorable Supreme Court Judgement has set aside the RBI Circular issued in April 2018 while delivering the verdict in the case of Internet and Mobile Association of India Vs. RBI. The honorable Supreme Court has stated that the circular issued by RBI instructing banks to make sure customers dealing in cryptocurrencies should not be allowed access to banking services is not legal in the absence of any legislative ban on the buying or selling of cryptocurrencies, the RBI cannot impose disproportionate restrictions on trading in these currencies. The court felt such restrictions would interfere with the fundamental right of citizens to carry out any trade that is deemed legitimate under the law.

Though the restriction has been lifted based on the judgment of the Honorable Supreme Court in the trading of cryptocurrencies, the Reserve Bank of India has asked banks to continue other due diligence procedures on cryptocurrency traders under rules linked to anti-money laundering and prevention of terrorism.

The basis on the recommendations of the RBI, in India, during the last 6 months, about 2 lacs accounts have been blocked by the top three cryptocurrency exchanges - WazirX, CoinSwitch Kuber and CoinDCX, citing malicious activities. It also means that there is still an active mechanism by the cryptocurrency exchanges with respect to KYC and monitoring the transactions from whom the users have received and the usage of the funds.

Taxation of Cryptocurrencies

Cryptocurrencies are about a decade old, and they are still in the evolving stage. As of date, only one country has made it a legal tender. Other countries are still evaluating the treatment of taxation (direct and indirect taxes) for transactions carried out with cryptocurrencies. Different countries have adopted different measures in taxing cryptocurrencies.

United States of America

The US Treasury has been issuing guidelines on cryptocurrencies since 2013, and they have not classified/ declared them as currency. Cryptocurrencies have been declared as Money Services businesses. It has been declared as property for taxation purposes.

Profit from cryptocurrencies trading is considered for capital gains. The tax has to be paid based on the holding period, either as short-term capital gains or long-term capital gains.

Canada

Cryptocurrencies are used in Canada to buy goods and services online or offline stores as long as they accept them. However, the Government has not declared it as legal tender. The exchanges dealing with cryptocurrencies are required to registered as Money Services Business and register with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

Canadian Revenue Agency considers Bitcoins as a commodity, which means that transactions carried out in cryptocurrencies will be a barter transaction. Once the transaction is classified as a barter transaction, the buyer paying in bitcoins has to issue a tax invoice, and Canadian VAT is applicable.

Russia

In Russia, cryptocurrencies are treated as digital assets like property, and they cannot make payments in cryptocurrencies. It means cryptocurrencies can be traded, and on trading, profits are taxable. Investors in cryptocurrencies have to disclose their holding in their returns income tax returns or pay a penalty of 10%. Reporting of holdings in cryptocurrencies is mandatory from April 2022.

United Kingdom

The United Kingdom has classified cryptocurrencies as property in 2020. The cryptocurrency exchanges have to be registered with Financial Conduct Authority. Individuals residing in the UK and holding cryptocurrencies will be taxed on profits made on the purchase and sale of cryptocurrencies as capital

gains. The regular exemption on the capital gains up to £12,300 is available, which means that if the profit is less than £12,300*, it is exempted and above that is taxable.* It is not considered as a legal tender to date.

Australia

According to the Australian Tax Office, cryptocurrencies are viewed as digital assets. On cryptocurrency transactions, both income tax and capital gains taxes are applicable. In case if the business receives payments in cryptocurrency, it has to be recorded in the books with the amount received in cryptocurrency and in Australian currency.

Switzerland

In Switzerland, taxation is different for different cantons, and this can lead to some confusion. In Zurich, cryptocurrencies are treated as digital payment units and are considered virtual currencies. It means that it can be used for regular payments or as investments. Virtual currencies are subject to wealth tax.

In Bern, for individuals, cryptocurrencies are treated as private assets and are subject to wealth tax and are classified as "miscellaneous assets." It means capital gains are also applicable

India

In India, cryptocurrencies are not considered legal tender. They are considered commodities as they are tradable in the exchanges. As they are treated as commodities, any profits or gains on the trading of cryptocurrencies are liable for taxation under Income Tax Act 1961 for capital gains.

From a GST perspective, there is uncertainty on the taxation and a lot of clarity is required. The main challenge is cryptocurrencies are not considered as legal tender by the Government. Suppose cyrpocurriences have to be considered legal tender. Section 22 and Section 26 of the Reserve Bank India Act 1934 have to be amended accordingly. Section 22 of the RBI Act 1934, only the Reserve Bank of India can issue Bank Notes. As per Section 26 of the RBI Act, only notes issued by RBI will be considered as legal tender. Suppose cryptocurrencies have to be declared as legal tender. In that case, the relevant provisions of the RBI Act have to be amended in the first place.

Can cryptocurrencies can be classified as security? If yes, we need to review the definition of security as defined in Section 2(h) of the Securities Contracts (Regulations) Act 1956. It defines securities as

Securities include

(i) *shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company 14[or a pooled investment vehicle or other body corporate];*

ia) derivative;

ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;

ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

id)) units or any other such instrument issued to the investors under any mutual fund scheme;

securities" shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);

ida) units or any other instrument issued by any pooled investment vehicle;]

ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;

(ii) *Government securities;*

Iia) such other instruments as may be declared22 by the Central Government to be securities; and

(iii) *rights or interest in securities;*

As cryptocurrencies cannot be classified as securities, it is paving the way for wider interpretation. There are various schools of taught processes on the taxation of cryptocurrencies, which gives an interpretation that it has to be classified as goods or services. The provisions of Section 7 of the CGST Act 2017 defined supply and included barter also.

For the purposes of this Act, the expression "supply" includes—

*(a) all forms of supply of goods or services or both such as sale, transfer, **barter**, exchange, licence, rental, lease or disposal made or agreed to be made for **a consideration** by a person in the course or furtherance of business;*

(b) import of services for a consideration whether or not in the course or furtherance of business 1[and];

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

Consideration – Section 2(31)

"consideration" in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Money Section 2(75)

"money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

Cryptocurrency cannot be considered as money basis on the above provisions in GST Act 2017.

Suppose cryptocurrencies are paid for the purchase of goods or services or both. In that case, the same transaction is to be considered Barter as per the above provisions. The buyer will be giving cryptocurrencies in place of legal tender in the form of cryptocurrencies. They are not legal tender in India at this point.

Example

A purchase a villa in the construction stage worth ₹ 5 crores in Hyderabad from builder B and pays B in cryptocurrency, i.e., pays Coinhaze coins (cryptocurrency) brought from Exchange E. The villa is transferred in A's name, and an occupancy certificate is received subsequently. B Pays 140 coins of conihaze as consideration.

Why it is a supply under GST?

I. There is a transaction of between A & B, B is giving Villa

II. There is the consideration paid by A to B

A is supposed to pay in rupees, but he is paying in Coinhaze coins, which means there is an exchange of villa for Coinhaze coins, and this purely falls under the category of "barter."

Cambridge dictionary defines barter as *"to exchange goods for other things rather than for money:"*

Merriam Webster defined barter as *"to trade by exchanging one commodity for another* **:** *to trade goods or services in exchange for other goods or services"*

From the above definitions, it is clear that the transaction between A & B is barter. It falls under the definition of supply as per the provisions of GST.

When the transaction is defined as barter, there will be a requirement to issue two tax invoices for a barter transaction. One tax invoice will be issued by the B for the sale of the villa. Another tax invoice has to be issued by A for Coinhaze coins, as it is not considered legal tender.

From the above, it is very clear that if cryptocurrency is used to purchase goods or services, it must be treated as supply, and GST is applicable. The next question arises: Is it to be treated as a supply of goods or services? As it is taxable under GST, the transaction has to be classified as either goods or services.

Definition of goods as per the provisions of Section 12(52) of the CGST Act 2017

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

The definition of goods in GST is borrowed from the definition of goods given in the Sale of Goods Act 1930.

Services are defined in Section 2(102) of the CGST Act 2017

"services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

The above two definitions clearly indicate that cryptocurrencies have to be classified as services. Cryptocurrency is intangible and cannot be seen physically or felt, or touched.

As per the definition of goods given in the Constitution of India, then it will be considered as goods. But going through some of the previous case laws gives an idea that it can also be classified as good as in the case of "***electricity***" based on the jurisprudence provided in the case of Associated Power Company vs. R.T Roy by the honorable High Court of Kolkata.

Goods have been defined in Article 366(12) as

"*goods includes all materials, commodities, and articles."*

In the case of Associated Power Co. v. R.T. Roy, the Calcutta High Court held that electricity comes under the ambit of 'goods' under Article 366 (12) of the Constitution. It can be argued that since electrical energy can be brought and sold, it will come under the ambit of a 'commodity or an 'article').

Taking a cue from the above judgment, we can also consider cryptocurrencies as goods as cryptocurrencies are traded as commodities in the exchanges. To classify it as goods or services as we have seen in other countries, there should be a clarification from the Government through legislation.

After classifying it as goods or services, the next question is the HSN code for cryptocurrencies is? It can be determined only as and when we have clarity on the classification and with necessary amendments for classification have been made. The basis on the classification, then only the tax rate can be determined.

If a tax invoice is required to be issued by A, the next question which comes into mind is on what value tax invoice has to be issued? It has to be valued as per provisions of Section 15 of CGST Act 2017; the transaction value paid in rupee terms for acquiring the villa can be taken, and, on that value, GST is to be computed.

Valuation – Section 15 of CGST Act 2017

(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include–––

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force **other than** *this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax(Compensation to States) Act, if charged separately by the supplier;*

In the previous example, we have seen that A pays B 140 coins, which is also being paid on GST. Ideally, it is not required to be paid based on GST provisions for Valuation as it has explicitly excluded the CGST, SGS, IGST and Compensation Cess taxes.

Going by our initial example, A has to issue a tax invoice for ₹ 5 crores as he is paying consideration in other than money. Now the question is GST applicable additionally on ₹ 5 crores or not? If yes, who will pay the tax amount? This also needs to be notified by the department to keep away the ambiguity. Ideally, A has to pay a value of ₹ 5 crores and on that GST at the applicable rate as this is purely an independent transaction.

Particulars	Amounts
Value of each coin = A	5,000
Currency Exchange Rate (USD to INR) = B	75
Value in INR = C (A X B)	3,75,000
Cost of Villa = D	5,00,00,000
GST @5% = E	25,00,000
Total value = F (D X E)	5,25,00,000
No of coins to be issued if Tax is to be included = G (F/C)	140
No of coins to be issued if Tax is to be excluded = H (D/C)	133

The input tax credit can be claimed if the buyer buys cryptocurrencies and uses them for business purposes. The exchanges charge some amount of fee for the transaction, and on the GST is applicable. The other question that arises is that as cryptocurrencies are to be treated as commodities, then is GST applicable to the value of cryptocurrencies purchased? Yes, it is applicable, and as of the date, it is not being charged by many of the exchanges.

The buyers have to obtain registration under GST if their threshold has crossed ₹ 40 lacs and pay GST on the transactions where they use cryptocurrencies to purchase goods or services or both. After obtaining GST registration, the buyer has to file GST Returns periodically and discharge GST with the input tax credit or cash for the invoices the buyer of cryptocurrencies.

Income Tax Implications

Now let's review the impact from the Income-tax point. On the sale of cryptocurrencies, Income tax is applicable. It will be taxed as it is not explicitly exempted in the Income Tax Act 1961. If the cryptocurrencies are treated as commodities, they are taxed on the profit as business income. The applicable tax rate is the individual taxpayer's bracket. There is also another school of taught which advocates cryptocurrencies as investments. If they are treated as investments, then it is applicable to be treated under capital gains based on the holding. The second school of taught may not hold good as the profit earned on the sale of cryptocurrencies is not a speculative income as per Income Tax Act Provisions as the delivery of cryptocurrencies has taken place.

Under the Income Tax provisions, what should be the treatment if the cryptocurrencies are purchased at a lower price and transferred to another person in exchange of goods or services? In such cases, is there any impact of Income Tax? The answer is yes, and it is to be taxed on the difference between the transfer price in Indian Rupees and the purchase price in Indian Rupees.

Normally wallets transfer coins to the holders as part of marketing and promotion to the existing holders, and it is termed as airdrops. The question is income tax applicability on the coins received as air drops when the recipient sells them or uses them to purchase goods or services? The answer is yes for the applicability of Income Tax. At the time of receipt of airdrops from the wallet owner, there is no GST as it is a gift in the recipient's hands. Still, GST will be applicable if the coins received as gift are used to acquire goods or services or both.

Equalization Levy

As of date, the equalization levy does not apply to the cryptocurrencies purchased by the Indian citizens from the exchanges located outside India. As these exchanges are not paying any taxes, the Government may notify them down the line for the applicability of the equalization levy.

OIDAR

To provide a level playing field for the domestic players, digital services provided by foreign companies to recipients in India are taxed as part of OIDAR services. The foreign entity must take registration under GST in India and pay GST on the services provided by them to Indian clients.

As of date, many of the cryptocurrency exchanges based out of India are not paying GST under OIDAR Services. This could be a bone of contention, and the department may go behind them to recover duties. This is a low-hanging sword, and they have to cough up 18% as and when they are issued notices by the officials.

As of date, there is an ambiguity on the taxation of cryptocurrencies in India as there is no specific legislation for the same. The interpretation or analysis is purely the author's views based on his experience and interpretation of the provisions. To clear this ambiguity, the Government should expedite the process of introducing the proposed Cryptocurrency Bill 2021, and it should clear the following grey areas

a) Treatment of mining of cryptocurrencies

b) Classification of Cryptocurrencies as goods or services

c) Taxability of cryptocurrencies as taxable or exempted

d) Applicable tax rates if they are treated as taxable goods or services

e) Equalization levy applicability on purchase of cryptocurrencies by Indian from foreign companies

f) The implication of trading of cryptocurrencies as per Income Tax, GST and other applicable laws

g) How to determine the exchange value for converting into INR for compliance purposes

h) Treatment of airdrops issued by the wallets to holders from time to time

i) Treatment under Income Tax as asset or security for taxation purpose

Though cryptocurrency is not a legal tender in India, many people have started investing in cryptocurrencies. These are used to purchase goods or services or for trading to make money or as an investment. It is also learned that many NRIs are remitting to their family members in cryptocurrencies to save the financial charges levied by the financial intermediaries. Few companies in India are accepting cryptocurrencies for the goods or services supplied by them.

The Government and the Reserve Bank of India are also contemplating a lot on the legislation for cryptocurrencies. As of date, it has not been made as a legal tender as India; we follow the Gold Standard for the issue of currency notes. Still, in cryptocurrency, they are not backed by any sovereign guarantee as they are privately held. The value of cryptocurrencies is highly volatile. In multiple instances across the globe, it has been observed that cryptocurrencies are miss used by anti-national forces. The legislation should be brought on cryptocurrencies at the earliest to avoid litigation. It will clarify the future course of action for the investors and address the above challenges being discussed. If possible,

the Government should introduce The Cryptocurrency and Regulation of Official Digital Currency Bill 2021in the upcoming winter session and take inputs from all the stakeholders similar to GST for effective implementation of the same and avoid disputes between the tax authorities with the trade & industry and investors.

Till it is made as legal tender, in any country it opens a can of worms for the law enforcing agencies on the taxation of the cryptocurrencies under the direct and indirect tax legislations in their countries.

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CHALLENGES IN AVAILMENT OF INPUT TAX CREDIT UNDER GST & MATCHING

Input Tax Credit (ITC) is backbone of GST as it ensures the critical feature of taxing on value addition in the supply chain. Any action of denying ITC would lead to Cascading effect and kills the soul of GST. Hence, the success of GST heavily depends on the free flow of ITC across the supply chain.

Invoice matching to avail ITC i.e. ITC is said to be allowed only when the supplier uploads the invoice containing the GSTIN & other details of the recipient & pays the GST thereon to the Government. The last 4 half years' experience has shown the various technical glitches for the Government to implement in its full force. The Government was very keen on imposing the same knowing very well that such requirement causes undue hardship to the Taxpayers. But in long run Govt is not having any option. The success of GST purely depends upon the matching.

Original Scheme of GST law

Section 42 specifies the mechanism for matching, reversal and reclaim of ITC wherein it was clearly stated the details of every inward supply furnished by a registered person shall be matched with the corresponding details of outward supply furnished by the supplier in such manner and within such time as may be prescribed. Accordingly, Rule 69 was framed to specify that the ITC shall be matched under Section 42 after the due date for furnishing the return in GSTR-03. Further, the first proviso to Rule 69 also states that if the time limit for furnishing Form GSTR-01 specified under Section 37 and Form GSTR-2 specified under Section 38 has been extended then the date of matching relating to claim of the input tax credit shall also be extended accordingly. Due to practical difficulties got has introduced 3B as a temporary return but now it is all most all permanent

However, due to various numerous challenges in the implementation of GSTR-2 & GSTR-3, the Government has extended the time limits for filing GSTR-2 and GSTR-3 from time to time and later indefinitely. In absence of a requirement to file GSTR-2 and GSTR-3, the ITC matching mechanism prescribed u/s. 42, r/w. Rule 69, will also get deferred and become inoperative.

Modified structure

Acknowledging the difficulties in original scheme of returns filing and attached ITC matching, the Government has introduced Section 43A of CGST Act, 2017 inter alia specifying that ITC would be allowed even on the unmatched invoices also subject to maximum cap of 20% on the matched ITC then it has reduced 10 and now it is only 5%.

In Sep 2018, 2A made available to taxpayers and which is dynamic in nature i.e every now and then it is being changed on upload of invoices from supplier side. It was very difficult to keep on updating reconciliation workings as it is keep on changing.

GSTR-2B which is a static statement is made functional for July 2020 on a trial run however, for the subsequent tax periods the same could be fully operational. While referring to the provisions of law, it is imperative to note that the law does not provide any legal sanction. GSTR-2B which was actually notified with effect from January 2021 onwards which is. 2B is static in nature. GSTN would make 2B available on 14th of succeeding month.

Benefits of 2B

1. It contains information on import of goods from the ICEGATE system including inward supplies of goods received from Special Economic Zones Units/ Developers.
2. A summary statement which shows all the ITC available and non-available under each section. The advisory given against each section clarifies the action to be taken by the taxpayers in their respective section of GSTR-3B.
3. Document level details of all invoices, credit notes, debit notes etc. is also provided both for viewing and download.

Issues with Current Situation

1. GSTN would make 2B available on 14th of succeeding month. This would give short period for 2B reconciliation with books of accounts.
2. There will be multiple sheets in 2B excel such as B2B, B2BA, DNs, CNs, Imports and amount payables are merged with normal B2B inwards which creates problems.
3. In Bharthi airtel case the Honourable Supreme Court said that GSTR2A/2B are only references tools to the recipients for his reconciliation. On this basis the department is not having any power to restrict the ITC. Hence once again availability of ITC on 2A/2B is just basis for reconciliation and not for deciding eligibility of input tax credit.
4. In GST also, we find bill traders as we have seen many ITC frauds.
5. Department would start allowing ITC as per 2B which will lead hardship to industry.

Our Observation and Requirement as expected

1. It should be made available on 12th itself by removing IFF (Invoice Furnishing Facility) for quarterly filing 3B filers concept. This would help recipients early to check their books of accounts.
2. 2B should be made available in single excel sheet with all details such B2B, B2BA, DNs, CNs, Imports and there itself it should show total which is available as input.
3. ITC frauds/bill trading will be minimised due to matching process.

Conclusion

As a whole matching concept is very good tool to minimize departmental audit and for self-assessment. Without matching probably number of department audits will be more in future. If you want to minimize litigations, matching is ultimate tool. Hence even though we are having lot of practical difficulties we need to promote matching process. Govt. has to take lenient view at least for initial 4-5 years. If they start harsh action against taxpayers may be whole concept of GST will fail.

CMA Niranjan Swain
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NO TDS ON INTEREST PAID BY THE BUILDER WHERE THERE IS A FAILURE TO HANDOVER POSSESSION OF FLAT – A CASE STUDY

In this article the author has made analysis of a recent decision **of Hon'ble Bombay High Court in case of Sainath Rajkumar Sarode v. State of Moharastra, reported in [2021] 131 taxmann.com 332 (Bombay)** where it is held that - where on builder's failure to handover possession of flat to assessee, Real Estate Regulatory Authority directed builder to refund advance amount paid by assessee with **compensatory interest, since, amount payable to assessee was in nature of a judgment debt**, payment of which could not establish a debtor-creditor relationship between them, TDS under section 194A of Income tax Act was not to be deducted on interest component. **The above principle also applicable in case where the interest is paid by builders on delay delivery of the flat as per order of National Consumer Disputes Redressal Commission ("NCDRC") or Hon'ble Supreme Court of India**

1. FACTS OF THE CASE:

- The assessees were individuals who entered into agreements with respondent 4-builder for purchase of various flats proposed to be constructed by it.
- The builder failed to handover possession of flats on time. Thus, Real Estate Regulatory Authority directed builder to refund the advance amount paid by the assessee, along with compensatory interest for loss or injury suffered by the assessee.
- The builder paid the assessee an amount of Rs. 1.80 crore as part payment under the recovery warrant.
- Subsequently, in view of there being balance amounts due and payable by respondent under the recovery warrant, the assessee and builder entered into consent terms. By these consent terms, builder undertook, jointly and/or severally, to pay the assessee a sum of Rs. 2.75 crore with compensatory interest. Such sums were to be paid in the form of instalments.
- In pursuance of the schedule of payments and the consent terms builder made payments of the instalments from March 2021 till June 2021 to the satisfaction of the assessee.
- However, for the instalment due on 20-7-2021, builder deducted 10 per cent tax deductible at source (TDS) on the amount of interest. It was the case of the assessee that such amounts could not, in law, be deducted.

2. SUBMISSIONS MADE BY COUNSEL FOR PETITIONERS:

a) The Learned Counsel for the Petitioners submitted that the amounts payable to the Petitioners under the Recovery Warrant and the Order dated 4th March 2021 and the Consent Terms is in the nature of a judgment debt, being compensatory amounts payable to the Petitioners under Orders of this Court (Bombay HC) and a Recovery Warrant owing to the failure of Respondents (4 nos) to satisfactorily discharge their contractual and statutory obligations under the Real Estate (Regulation & Development Act), 2016 ("RERA Act").

b) Learned Counsel for the Petitioners has pressed in to service the following Judgments in support of such contention: **(i) All India Reporter Ltd. v. Ramchandra D Datar [1961] 41 ITR 446 (SC) (ii) Madhusudan Shrikrishna v. Emkay Exports [2010] 188 Taxman 195 (Bom.) (iii) Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. [2018] 96 taxmann.com 610/257 Taxman 570/[2019] 413 ITR 82 (Cal.) (iv) Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. Ltd. [2019] 105 taxmann.com 64/263 Taxman 237 (SC) and (v) Beacon Projects (P.) Ltd. v. CIT [2015] 62 taxmann.com 177/234 Taxman 706/377 ITR 237 (Ker.).**

3. SUBMISSIONS MADE BY COUNSEL FOR THE RESPONDENTS:

a) The Learned Senior Counsel for the Respondents had submitted that the Respondents deducted the said amount as TDS as per the provisions of section 194A of the Income-tax Act, 1961. **The Learned Senior Counsel had further stated that the TDS has not been filed before the concerned authority and that they have no objection to paying the amount deducted as TDS,** to the Petitioners, so far as it is in compliance with the statutory provisions and no penalties are imposed upon these Respondents due to non- payment of the same

b) The Learned Senior Counsel on behalf of the Respondents has considered the legal position with respect to deduction of the tax in the facts of the present matter and has tendered a Note dated 18th August 2021 in support of the contention that the provision for payment of interest to the flat purchasers/Petitioners in the present matter is by way of compensation, and hence outside the purview of section 194A and section 2(28A) of the Income-tax Act, 1961.

c) The Learned Senior Counsel for Respondents has no objection to this legal position being clarified. To supplement the judgments tendered by the Petitioners, the Respondents have relied upon the following judgments **(i) Estate Officer, Greater Mohali Area Development Authority v. Gaurav Mutneja 2020 SCC online NCDRC 278 (ii) Ghaziabad Development Authority v. Dr. NK Gupta 2002 SC Online NCDRC 39 (iii) Ghaziabd Development Authority v. Naresh Kumar Sharma [2005] 9 SCC 477 (iv) Rajnish Bhardwaj v. CHD Developers Ltd. 2019 SCC Online NCDRC 739 (v) Central India Spg. & Wvg. & Mfg. Co. Ltd. v. Municipal Committee, Wardha AIR 1958 SC 341 and (vi) CIT v. HP Housing Board [2012] 18 taxmann.com 129/205 Taxman 1/340 ITR 388 (HP).**

> ***Note:*** *It may be noted that, even though the TDS u/s 194A was deducted by the Respondents from the payment made to Petitioners, the Legal Counsel supported the argument of Counsel of the Petitioners that no deduction is required to be made as the payment made is in the nature of compensation and not interest. Further put a note that to refund the TDS amount as not deposited so far with Government / CBDT) by the Respondents.*

4. DISCUSSIONS OF HON'BLE HIGH COURT:

4.1. The court first look at the relevant provisions of the Income-tax Act, 1961 ("IT Act"). Deduction of tax at source is provided for under sections 192 to 195 and Sections 196A to 196D forming part of Chapter XVII - B of the IT Act. The liability to deduct TDS arises under the IT Act only if the amount due and payable assumes the nature of payment specified under Chapter XVII-B thereof.

4.2. Even assuming specific cases of payment under Chapter XVII - B of the IT Act are considered, Sections 193 and 194A of the IT Act deals with provisions relating to deduction of tax at source in respect of payment relating to "interest". Section 193 of the IT Act deals with deduction of tax at source from "interest on securities" and section 194A deals with deduction of tax at source from "interest other than 'interest on securities'".

4.3. It would be convenient at this stage to extract hereunder the relevant portion of section 194A of the IT Act :

"194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed [one crore rupees in case of business or fifty lakh rupees in case of profession] during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.

Explanation.—For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

4.4. The IT Act defines **"interest"** under section 2(28A) as:

'2. In this Act, unless the context otherwise requires,- …….

(28A) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.'

4.5. Hon'ble Bench also made analysis of the issue of payment of interest as compensation by a builder and consequent deduction of tax at source thereon and referred to the submissions made by the Counsel of the Appellant as follows.

a) The Calcutta High Court in the case of **Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. [2018] 96 taxmann.com 610/257 Taxman 570/[2019] 413 ITR 82 (Cal.)** held in paragraph 16, that

"from the definition of interest as occurring in section 2(28A) of the IT Act, it appears that the term "interest" has been made entirely relatable to money borrowed or debt incurred and various gradations of rights and obligations arising from either of the two"

It further held in paragraph 18 that,

"We accordingly are of the view that the payment made by the assessee to the allottee was in terms of the agreement entered between them where the liability of the assessee would arise only if it failed to make the plots available within the stipulated time. Hence, the payment made under the relevant clause was purely contractual and as rightly held by the Tribunal, in the nature of compensation or damages for the loss caused to the allottee in the interregnum for being unable to utilise or possess the flat. The favour of compensation becomes evident from the words used in the particular clause. The expression 'interest' used in clause 7 (reproduced above) may be seen merely as a quantification of the liability of the assessee in terms of the percentage of interest payable by the State Bank of India. Since there is neither any borrowing of money nor incurring of debt on the part of the assessee, in the present factual scenario, interest as defined under section 2 (28A) of the Act can have no application to such payments. Consequently, there was no obligation on the part of the assessee to deduct tax at source and consequently no disallowance could have been made under section 40 (a) (ia) of the Act.

In view of the above, we confirm the decision of the Tribunal dated 2nd December 2015. I.T.A. No. 84 of 2018 is accordingly dismissed."

A Special Leave Petition against the order of the Hon'ble Calcutta High Court was dismissed by the Hon'ble Supreme Court [**Ref: Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. Ltd. [2019] 105 taxmann.com 64/263 Taxman 237 (SC)]**

b) In the case of **Beacon Projects (P.) Ltd. v. CIT [2015] 62 taxmann.com 177 / 234 Taxman 706 / 377 ITR 237 (Ker.)**, the Kerala High Court held at paragraphs 11 and 12 that:

"From the principles laid down in the decisions referred to above, it is obvious that section 2(28A) is not attracted to every payment made and that the provision can be attracted only in cases where there is debtor-creditor relationship and that payments are made in discharge of a pre-existing obligation.

In so far as these cases are concerned, facts stated by us itself would show that the purchaser had paid certain amounts to the appellant. At a later point of time, the purchaser opted out of the agreement and the appellant entered into fresh agreements with new buyers for prices that are higher than what was agreed with the purchasers. Out of the receipts from the new buyers, the appellant refunded to the purchasers the amount paid by them and a portion of the excess amount received. The amount thus refunded to the purchasers represents the consideration the purchasers paid towards the undivided shares in the property agreed to be purchased and also the cost of construction of the apartment, which work was entrusted to the appellant, being the builder. Such a relationship does not spell out a debtor-creditor relationship nor is the payment made by the appellant to the purchaser one in discharge of any pre-existing obligation to be termed as interest as defined in section 2(28A)"

c) It has also been held by the Hon'ble Supreme Court in the case of **All India Reporter Ltd. v. Ramchandra D Datar [1961] 41 ITR 446 (SC)** that when the claim is merged in the decree of the court, the claim assumes the character of a judgment debt, which is not liable to deduction of tax at source.

d) In **Madhusudan Shrikrishna v. Emkay Exports [2010] 188 Taxman 195 (Bom.)**, a Single Judge of this Court held that once a decree is passed, it is a judgment and the order of the court which culminates into a final decree being passed which has to be discharged only on payment of the amount due under the said decree. The judgment debtor, therefore, cannot deduct tax at source, since it is an order and direction of the court and, as such, would not be liable for penal consequences for non-deduction of the tax due.

4.6. Hon'ble Bench also gone through the judgments tendered by the Respondents and find them supportive of the proposition that provision of interest by way of compensation falls outside the purview of section 194A and section 2(28A) of the Income Tax.

a) In the case of **Central India Spg. & Wvg. & Mfg. Co. Ltd. v. Municipal Committee, Wardha AIR 1958 SC 341**, with respect to interpretation of taxing statutes, a Constitutional bench of the Hon'ble Supreme Court held as follows -'

28. If "terminal" besides the above meaning has an additional meaning also and that meaning signifies the termini or the jurisdictional limits of the municipal area even then the construction to be placed on the term should be the one that favours the tax-payer, in accordance with the principle of construction of taxing statutes, which must be strictly construed and in case of doubt must be construed against the taxing authorities and doubt resolved in favour of the taxpayer. In Crawford on Statutory Constructions in para. 257, at p. 504 the following passage pertaining to construction of taxing statutes taken from Bedford v. Johnson17 is quoted:

"Statutes levying taxes or duties upon citizens will not be extended by implication beyond the clear import of the language used, nor will their operation be enlarged so as to embrace matters not specifically pointed out, although standing upon a close analogy, and all questions of doubt will be resolved against the government and in favour of the citizen, and because burdens are not to be, imposed beyond what the statute expressly imparts."'

b) In the case of **CIT v. HP Housing Board [2012] 18 taxmann.com 129/205 Taxman 1/340 ITR 388 (HP),** wherein the assessee Board was liable to pay interest to allottees for the delay in construction, the High Court of Himachal Pradesh held as follows –

"8. In the case in hand it stands proved that in case the houses were ready within the stipulated period the Board would not be liable to pay interest. When construction of a house is delayed there can be escalation in the cost of construction. The allottee looses the right to use the house and is deprived of the rental income from such house. He is also deprived of the right of living in his own house. In these circumstances the amount which is paid by the Board is not payment of interest but in our view is payment of damages to compensate the allottee for the delay in the construction of his house/flat and the harassment caused to him. It may be true that this compensation has been calculated in terms of interest but this is because the parties by mutual agreement agreed to find out a suitable and convenient system of calculating the damages which would be uniform across the Board for all the allottees.

c) While taking this view the Bench relying upon the judgement of the **Apex Court in Bikram Singh v. Land Acquisition Collector [1997] 224 ITR 551/[1996] 89 Taxman 119.** In the case before the Apex Court the question was whether the interest paid to the persons whose land had been compulsory acquired under sections 28 and 31 of the Land Acquisition Act was a revenue receipt or a capital receipt. The Apex Court held that

"though it was termed as interest on delayed payment, it was actually a revenue receipt and therefore the provisions of Section 194A of the Income-tax Act would have no application. It would be pertinent to mention that the National Consumer Dispute Redressal Commission in Revision Petition No. 2244 of 1999 titled as G.D.A. v. Dr. N.K. Gupta under similar situation held that when the State Commission directed payment of interest to the allottees for delayed completion of flats the same did not fall within the purview of Section 194A of the Income-tax Act.

In the present case the allottees had not given the money to the Board by way of deposit nor had the Board borrowed the amount from the allottees. The amount was paid under a self-financing scheme for construction of the fat and the interest was paid on account of damages suffered by the claimant for delay in completion of the flats."

d) The aforesaid judgment further relies upon a judgment of the **Ghaziabad Development Authority v. Dr. NK Gupta 2002 SC Online NCDRC 39**, wherein a bench of 4 members of the Commission held as follows:

"It would, therefore, appear to us that the provisions of the Land Acquisition Act where interest is payable under sections 28 and 34 and tax is deducted at source under section 194-A of the Income-tax Act would not apply in the present case where GDA has been asked to pay interest on the amount refunded to the Complainant because of its failure to construct the promised fat and to provide necessary facilities. The amounts which were paid to the GDA by the Complainant were not paid by way of any deposit or GDA had not borrowed that money. And, as a matter of fact, interest as defined in sub-section (28) of section 2 of the Income-tax Act is not that interest as was directed to be paid to the Complainant by the GDA. Interest to the Complainant (here Dr.Gupta) has not been awarded on the basis of any deposit made by the Complainant or GDA being the borrower of any money of the Complainant. Here interest payment is by way of damages. Merely describing the damages as by way of interest do not make them as interest under the Income-tax Act.

.........The word interest used in the order of the State Commission is not what interest is as defined in Section 2(28-A). There in the order of the State Commission interest means compensation or damages for delay in construction of the house or handing over possession of the same causing consequential loss to the Complainant by way of escalation in the price of the property and also on account of distress, disappointment faced by him. Interest in the order has been used merely as a convenient method to calculate the amount of compensation in order to standardise it. Otherwise, each case of the allottee will have to be dealt with differently. Nomenclature does not decide the issue.

In our view, therefore, considering the definition of 'interest' as contained in section 2(28-A) of the Income-tax Act, provisions of Section 194-A were not applicable and the GDA was clearly wrong in deducting the TDS from the interest payable to the Complainant.

Accordingly, the order of the State Commission is upheld and this Revision Petition is dismissed."

4.7. Further the Senior Counsel for Respondents submits that the National Consumer Disputes Redressal Commission ("NCDRC") has passed several orders clarifying the position in all such matters wherein fat purchasers have executed agreements to sell / fat buyer agreements but have not received physical possession of their flats in the committed period. Therefore, the NCDRC has directed refund of the amount paid by the buyers, along with interest for the loss or injury suffered by the buyers on account of delayed possession. In one such judgment of **Rajnish Bhardwaj v. CHD Developers Ltd. 2019 SCC Online NCDRC 739**, the NCDRC held **-**

"30. Before parting, we may make it clear that the interest @ 12% p.a. on the refund of the amount which has been awarded as compensation and not factually as interest on refund and, therefore, there is no question of deducting any tax on source."

5. ANALYSIS AND DECISIONS OF HON'BLE BOMBAY HIGH COURT:

5.1. From a consideration of the case laws cited, the Hon'ble Bench are of the view that the amount so payable is in the nature of a judgment debt or akin to a judgment debt, the payment of which cannot establish a debtor-creditor relationship between the parties. As such, the said sum or any part thereof cannot be liable to tax deducted at source under the relevant provisions of the IT Act. This is in line with the decision of the **Hon'ble Supreme Court in case of All India Reporter Ltd. v. Ramchandra D Datar <u>[1961] 41 ITR 446 (SC)</u> and judgement of Bombay High Court in case of Madhusudan Shrikrishna v. Emkay Exports <u>[2010] 188 Taxman 195 (Bom.)</u>** Further, the Bench of the considered view that the amounts payable are in the nature of compensation to the Petitioners on account of the Respondents' failure to comply with their statutory and contractual obligations. Such a situation is covered by the judgments of **CIT v. HP Housing Board <u>[2012] 18 taxmann.com 129/205 Taxman 1/340 ITR 388 (HP)</u>, Ghaziabad Development Authority v. Dr. NK Gupta 2002 SC Online NCDRC 39, Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. <u>[2018] 96 taxmann.com 610/257 Taxman 570/[2019] 413 ITR 82 (Cal.)</u> and Pr. CIT v. West Bengal Housing Infrastructure Development Corpn. Ltd. <u>[2019] 105 taxmann.com 64/263 Taxman 237 (SC)</u>** with which the bench is in respectful agreement. It is of some significance that the Supreme Court declined to interfere and dismissed the SLP filed by the Department against this judgment. While concluding the court of are also supported by the well settled principle that taxing statutes must be read strictly and in the event of there being any ambiguity an interpretation favouring the tax payer ought to be adopted.

5.2. Further it was hold that the amounts payable being in effect a refund of the amounts paid by the Petitioners to the Respondents, along with compensatory interest thereon, such a relationship does not spell out a debtor-creditor relationship nor is the payment made by the Respondents to the Petitioners one in discharge of any pre-existing obligation, so as to attract section 2(28A) of the IT Act and are in respectful agreement with the Judgment of the **Kerala High Court in Beacon Projects (P.) Ltd. v. CIT <u>[2015] 62 taxmann.com 177/234 Taxman 706/377 ITR 237 (Ker.)</u>** which takes the same view, in facts similar to those that we are dealing with in the present matter.

5.3. In view of the above, builder was not obligated to deduct TDS and, thus, builder was directed to pay to the assessee the amount so deducted from the instalment. [Para 27]

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FACELESS ASSESSMENT – HONOURING THE HONEST???

The global tax landscape has been witnessing dynamic changes, with tax administrations around the world continously gearing up to keep pace with rapid technological advancements to ramp up the effectiveness of their tax administrations.The enhanced transparency and disclosure are the new norms of tax administration world wide.The process of Structural Reforms regarding taxation in the country had a historical footing on 13.08.2020 when the Hon. Prime Minister launched the platform of "Transparent Taxation – Honouring the Honest". The Prime Minister praised the role of honest taxpayers in nation building and said that making the lives of such taxpayers easy is the responsibility of the government. *"When the life of an honest taxpayer of the country becomes easy, he moves forward and develops, then the country also develops and leaps forward". – PM remarked.*

The ongoing reforms aim at making the tax system Seamless, Painless, Faceless. The Seamless system works to resolve the problems of a taxpayer instead of entangling him further. By being Painless, everything from technology to rules should be simple. Referring to the Faceless system there is no need for a direct contact between the Taxpayer and the Income Tax Officer in all matters of scrutiny, notice, survey or assessment.

And this platform aims to attain its objectives through implementing three schemes viz. **Faceless Assessment, Faceless Appeal** and **Taxpayers Charter**. Earlier budget speeches also had the clues for these proposed schemes. **Faceless assessment** being the new name assigned to E – Assessment scheme 2019, which is made in run from the date of announcement. Introduction of a **Taxpayers Charter** is a recognition of the 'rights' of the taxpayer, and is under progress.

The faceless assessment scheme was launched in 2020 with the objective of promoting an efficient and effective tax administration, minimizing physical interface, increasing accountability and introduction of team-based assessments. Faceless assessment is, no doubt, a major tax reform initiative and India is one of the few countries to adopt such a system.

PRESENT SCENARIO – FACELESS ASSESSMENT

The experience has generally been good in most of the cases, with assessment orders being passed accepting the returned income, not seeking to make unwarranted small additions as used to happen in

the past in case of assessments completed through physical appearance before tax officers. However, in quite a few cases, taxpayers have faced problems, which need to be sorted out to improve the process and the overall experience. Taxpayers who had faced additions to their returned income in the past continued to receive identical orders, even though it had been pointed out that appellate authorities had decided the issue in favour of the taxpayers for past years since the last order. The major issues faced by the assessee are as below :

1. **Rigid approach:**

   In faceless assessment, more weightage has been given to assessment based on set of instructions and SOP's. This method has its own limitations as it cannot encompass all possible business scenarios. The tax officer may in order to comply with the set of instructions and SOP's and to avoid audit risk on them, may follow the instructions and SOP's in rigid manner without any flexibility in deserving cases too. Though set of instructions and SOP's will lead to same conclusion, the same is not warranted in each and every case. A middle solution should be found for these problems to mitigate the probability of increased litigations.

2. **Infeasibilities in uploading huge data.**

   The notices received by some taxpayers have asked for voluminous details not justified by the facts of the case. For instance, companies whose accounts are audited have been asked to provide copies of all bank statements, sometimes with summaries of transactions, and sometimes with the narration of each transaction. For even most small and mid-sized companies, this is a difficult and time-consuming task. Officers may need to be trained better to ask for the right type of information, depending upon the type of case that he is handling. Sometimes the AU asks to upload vouchers and supporting evidences for entire period which may end up with huge data to be uploaded. The system accepts only data file less than 10 MB and only 10 files can be attached in a single slot reply.

3. **Inadequate time to file the reply.**

   Very often, given the copious amount of information sought and the format in which it was needed to be compiled, the time given to respond to the notice was insufficient. Often merely three days are found to be allotted to file the reply. The pandemic situation adds salt to the injury as many entities were not able to respond in time due to constraints caused by lockdowns or unavailability of staff. Officers need to be sensitized to the fact that taxpayers should not be put to an undue burden of supplying too much information, which may not really be needed, as it also impacts taxpayer productivity. The time given to provide the information should also be commensurate with the amount of information sought. Any adjournment sought for is also not found to be appreciated by the authority as the next notices are issued neglecting the request. Even the draft assessment orders proposing huge additions are given time to file reply with in a smaller period with in which holidays, Sundays may crept in. Such notices are been send late evenings/night that a day in between to file reply already got expired. Justice demands that taxpayers should be given at least five working days' time to respond to the notices.

4. **Non Compliance with Scheme Procedure.**

   The assessment scheme specifically provide to provide an opportunity to the assessee, ***in case any variation prejudicial to the interest of assessee is proposed***, by serving a notice calling upon him

to show cause as to why the proposed variation should not be made. Many taxpayers did not receive draft assessment orders as contemplated by the scheme, but directly received the final assessment orders. Those who did receive the draft orders were often given inadequate time to respond as mentioned above. This completion of assessment without giving opportunity being heard is a violation of natural justice and would involve interference of judiciary to prevail justice.

5. Non consideration of replies

Various courts have blasted out towards various orders having huge demand, without application of mind by the respective officers. The objections filed in response to draft assessment orders were generally merrily ignored by the officers, as if the addition was pre-decided and seeking of objections was just a formality simply by adding a single line along with pre drafted SCN.

6. Glitches in Video Conferencing option :

The worst experience was in the case of requests for video-conferencing by taxpayers, who felt the issue had not been understood properly by the authorities. A majority of such requests was ignored. A few received messages asking them to request video-conferencing by a particular date, and before that, they received their final assessment orders, rendering the whole concept futile. In many situations passwords are not received before the schedule. There are instances where in pre allotted link not getting connected nor the proper authority not accepting to enter for the conferencing. The authority treats this opportunity for VC to be a discretionary power to grant whereas in practical it is the inherent right of assessee to get that opportunity to make their contentions more clearly and effectively. Moreover after successful VC there are orders which did not take any inputs, which are more than enough valid to change the draft assessment order, and passing orders detrimental to the interest of assessees.

INVOLVEMENT OF JUDICIARY

Honourable judicial system is involving to those genuine hardships faced by the assessee and passing orders in favour of them. Some of the recent relevant judgements are mentioned below :

a. Ekambaram Sukumaran vs ITO NeAC and Kumaran Silk Traders vs ITO NeAC – Hon Madras Highcourt.

Revenue held bound to wait till end of working day when matter posted for finalization – relied on 83 ITR 683 – ultimately assessment order set aside in writ proceedings. Insufficient time given thereby assessment order set aside

b. D.J.Surfactants vs NeAC– Hon Delhi High Court

Reply of assessee dated 12.03.2021 not considered in assessment order and requested personal hearing not provided to assessee – stay of operation of assessment order granted.

c. Royal Lake city vs NeAC – Hon Gujarat High Court

Assessment order passed on 25.03.2021 prior to notified closure date of reply which was 26.03.2021 so apparent violation of natural justice – operation of assessment order stayed.

d. Chander Arjandas Manwani Vs National Faceless Assessment Centre & ors.- Hon Bombay High Court

No draft assessment order has been issued at all let alone on 1st February, 2021. The notice dated 1st February, 2021, as stated earlier, is seeking further documentary evidences and those evidences

sought are for the first time. When respondent is seeking documentary evidences, that communication by no stretch of imagination can be even referred to as a draft assessment order.

e. Mantra Industries Limited Vs National Faceless Assessment Centre - Hon Bombay High Court

An assessment order passed by the Assessing Officer (**AO**) should necessarily be made with sound consideration and application of mind, and any absence thereof shall make the order liable to be set aside and would warrant imposition of substantial costs on such AO.

On the contrary to the above judgements favourable to the assessee there are decisions from the honourable courts against them also, on the view that that *we have to follow the law and we can't challenge the provisions provided in law*. Keeping in view of these contraries it would be recommendable to amend the statute to protect the interests of genuine/honest tax payers, and also to keep track of bogus tax claimers. All these interferences may lead to turmoil in the entire tax paying system.

Conclusion

Tax administration in India is in midst of its golden era of innovations and digital transformation. Faceless assessment and faceless appeals aim to eliminate physical interface between taxpayers and the tax authorities, thereby imparting greater efficiency and transparency to the assessment and appeal process. If implemented in letter and spirit, this will boost confidence and trust in taxpayers and encourage a wider population to pay their taxes and file their returns. Only a scientific implementation would make the scheme a 'hit' or else can be a 'miss'.

The fundamental principle SALUS POLPULI EST SUPREMA LEX – meaning welfare of people is supreme of Law , inspired by principle of justice, equity and good conscience , must be ensured to make the slogan Ease of doing Business in practical otherwise the quote by Martin Luther King Jr. that 'Injustice anywhere is a threat to justice everywhere' would triumph in this era.

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SPECIAL POINTS TO BE CONSIDERED BY SALARIED PERSONS AND PENSIONERS WHILE PREPARING INCOME TAX FINAL STATEMENTS IN FEBUARY 2022

You may be either a salaried person or a pensioner. But you have to understand about the Finance Act 2021 and latest notifications and circulars of CBDT and other regulators before preparing your income tax Final statement.

Following are the important changes you have to be noted before giving Income Tax Final Statement in Feb 2022 .You have to give the Final statement to the DDO or the pension disbursing Authority.

1. If you are pensioner of age 75 or more ,you have to understand section 194 P of the income Tax Act (Newly inserted section as per the finance Act of 2021)

2. No Changes in Income Tax Rates in the A.Y 2022-2023.The Income Tax Rates are as same as the Income Tax Rates of the A.Y 2021-2022.

3. You can either opt New Option or the Old Option. Please Compute your Income Tax Liability as per the both sections and decide which option is more beneficial to you. You can claim Rs 50000 as standard deduction and Sec 24 b deduction (Interest on borrowed capital with respect to your house property) and Chapter VI A deductions if you opt section 115 BAC

4. Please understand Sec 234 B and Sec 234 C of income Tax Act and calculate the exact tax payable. If you are a senior citizen, you do not worry about Sec 234 B. If you are person with advance tax liability ,you have to pay at least 90 % of Assessed tax before 31/03/2022.Besides, to avoid interest under section 234 C, you have to pay advance tax as follows:-

   15/06/2021-15% of assessed tax liability

   15/09/2021-45% of assessed tax liability

   15/12/2021-75% of assessed tax liability

   15/03/2022-100% of assessed tax liability

If you fails to comply either Section 234 B or Section 234 C, you will have to pay interest. Therefore, you have to extremely careful. You have to check your 26 AS and understand your other incomes and ascertain your tax liability considering your income from all sources. You may have income from the following sources.

i. Interest Income from banks

ii. Interest Income from Treasury Accounts

iii. Income from shares or mutual funds etc

6. Please check your 26 AS before computing your Total Income .CBDT has directed to expand the scope of information reported in New Form 26 AS to include Mutual Fund Transaction, Foreign remittances etc

8. You can Claim Deduction in respect of interest on loan taken for certain house property as per Sec 80 EEA in the Assessment year 2022-2023 subject to the conditions specified in the sec.

ADVANCE RULING IN GST

(APRIL, 2021 - JULY, 2021)

TEAM TRD

Name of Applicant	Industry	Order No. & Date	Case History
Dubai Chamber of Commerce And Industry	**Liaison office of Dubai Chamber of Commerce and Industry formed to represent, support and protect the interests of the Dubai business community in India** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA-35/2019-20/B-14 Mumbai, dated 24.05.2021**	**Facts of the Case:** The applicant is a non-profit organization, formed to represent, support, and protect the interests of the Dubai business community in India, by creating a favourable environment, promoting Dubai businesses, and supporting the development of business in India. Under the ambit of RBI norms, Applicant shall undertake below liaison/ representation activities in India; ➢ Liaison between India office and Dubai office ➢ Attending and representing DCCI in various seminars, conferences & trade fairs Connecting businesses in India with business partners in UAE and vice versa Organizing events & interactions with Indian stakeholders for sharing information about Dubai No other activity is to be performed by the applicant in India whether with or without any consideration. All expenses incurred by the applicant (predominantly office rent, salaries, consultancy services), are to be reimbursed from DCCI UAE on a cost-to-cost basis. Thus, no consideration is to be charged/ paid for the aforementioned activities.

			Issues on which Advance Ruling Required (i) whether the applicant is required to be registered under the Act (ii) whether any particular thing was done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term **Views of Maharastra Authority of Advance Ruling** 1. The applicant is not a non-profit organization, affecting the supply of services for a consideration for which it has to obtain GST registration and pay applicable GST on its transactions. 2. Further, it added that the applicant calls itself a liaison office. This satisfied one condition of an intermediary — broker, agent, or any person by whatever name called. **Conclusion:** Maharastra Authority of Advance Ruling in a matter of Dubai chamber of commerce has ruled that Liaison office of Dubai Chamber of Commerce and Industry formed to represent, support and protect the interests of the Dubai business community in India, by creating a favourable environment, promoting Dubai businesses and by supporting the development of business in India is providing Intermediary services to Dubai HO, chargeable to GST.

M/s. Thermo Fisher Scientific India Pvt. Ltd.	5% GST on National Centre for Polar and Ocean Research, University of Delhi, Council of Scientific and Industrial Research, CSIR-North East, and Institute of Science & Technology (Maharashtra Authority of Advance Ruling)	GST-ARA- 45/2019-20/B-15, Mumbai, dated 14.06.2021	**Facts of the Case:** Thermo Fisher Scientific India Pvt. Ltd. supplies scientific and technical instruments and equipment to public funded research institutions, research institutions, universities, Indian Institute of Technology (IIT), departments and laboratories of the Central and State Government. Normally, Applicant imports the said goods & clears the same by (i) filing Bill of Entry for Warehouse without payment of assessed customs duty & IGST or (ii) filing Bill of Entry for Home Consumption thereby paying the applicable customs duty and IGST. The said institutions, raise purchase orders on the Applicant for the supply of the said goods, declaring therein that, supplied items will be used for research and development. The applicant sought the advance ruling on the issue of whether Applicant is correct in charging 2.5% CGST and SGST or 5% IGST, as applicable, by applying Notification No.45/2017-C.T. (Rate), Notification No. 45/2017 -S.T.(Rate) and Notification No. 47/2017-I.T.-(Rate) all dated November 14, 2017, on the scientific and technical instruments/ equipment supplied to public-funded research institutions, research institutions, universities, Indian Institute Of Technology, departments and laboratories of the Central and State Government, basis the certificates.

			Views of Maharastra Authority of Advance Ruling The Coram of T.Ramnani and P.Vinitha Sekhar ruled that the applicant would be correct in charging 5% GST only in 4 cases of National Centre for Polar and Ocean Research, the University of Delhi, Council of Scientific and Industrial Research CSIR-North East, and Institute of Science & Technology where all the conditions mentioned in the impugned Notifications are found be satisfied and the necessary and proper certificates, complete in all ruling respects as mandated by the relevant Notifications have been produced. **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 5% GST on National Centre for Polar and Ocean Research, University of Delhi, Council of Scientific and Industrial Research, CSIR-North East, and Institute of Science & Technology. The applicant,
M/s. M P Enterprises & Associates Limited	**service of operating mini AC buses by the applicant for Brihan Mumbai Electricity Supply Transport Undertaking (BEST) would be subject to 12% GST under Tariff Heading 9966.** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA- 37/2020-21/B- 16, Mumbai, dated 14.06.2021**	**Facts of the Case:** The applicant, M.P. Enterprises & Associates Limited is a 'supplier' GSTIN, under the provisions of the Central Goods and Services Tax Act, 2017. Brihanmumbai Electric Supply and Transport Undertaking (BEST) floated a Tender dated 24.08.2019, for the operation of stage carriage services for the public transport of 500 mini AC buses in Mumbai and its suburbs. The bid submitted by the applicant was accepted. The applicant entered into an agreement with BEST for the operation of stage carriage services for the public transport of AC minibusses.

			The applicant sought the advanced ruling on the issue of whether the service of operating mini AC buses by the applicant for Brihan Mumbai Electricity Supply Transport Undertaking (BEST) would be exempt from payment of GST under Tariff Heading 9966 i.e. 'services by way of giving on hire to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers' in terms of Notification No.12/2017-CT(R) dated 28.06.2017 or not? Answered in the negative. The applicant further sought clarification on whether the service of operating mini AC buses by the applicant for BEST would be subject to 12% GST under Tariff Heading 9966 i.e. renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient' inserted by way of Notification No.31/2017 dated 13.10.2017? (Amended Notification No.11/ 2017-CT(R) dated 28.06.2017) Answered in the affirmative. However, 12% GST is chargeable only. The applicant also asked that whether the service of operating mini AC buses by the applicant for BEST would be subject to GST @18% under Tariff Heading 9966 i.e. rental service of transport vehicles with or without operators' under Notification No.11/2017-CT(R) dated 28.06.2017. **Views of Maharastra Authority of Advance Ruling** The Coram ruled that service of operating mini AC buses by the applicant for Brihan Mumbai Electricity Supply Transport Undertaking (BEST) would not be exempted from payment of GST under Tariff Heading 9966.

			The AAR ruled that service of operating mini AC buses by the applicant for BEST would be subject to 12% GST under Tariff Heading 9966 with effect from October 13, 2017. The Authority observed that service of operating mini AC buses by the applicant for BEST would be subject to 18% GST under Tariff Heading 9966 with effect from October 13, 2017. **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 12% GST on service of operating mini AC buses.
Senor General Manager Ordnance Factory	**Input Tax Credit is not allowable in respect of manpower services hired for industrial canteen and LPG cylinders refilled for use in industrial canteen.** **Input Tax Credit is allowable in respect of medicines purchased in factory hospitals and other inputs and input services used in factory hospitals** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA- 58/2019-20/B- 28 ,Mumbai, dated 13.07.2021**	**Facts of the Case:** The applicant, Ordnance Factory Chanda (OFCh), the applicant, is a unit of Ordnance Factories Board (OFB) functioning under the Department of Defence Production and Supply. Ministry of Defence, Government of India. Established in the year 1964, the main business of OFCh is, to manufacture various types of ammunition like bombs, shells, cartridges, rockets etc. It is also engaged in manufacture of explosive and non-explosive components such as Initiator. Primer Cap, Fuze, Paper Components & Packages. The said products are supplied mainly to Indian defence and military forces. Some of the products are also supplied to sister Ordnance factories that use such goods for their production and manufacturing process. OFCh also supplies a small part of its manufactured goods to state police. Defence Public Sector companies like Bharat Dynamics Ltd, units under the Ministry of Home Affairs and defence laboratories like Defence Research & Development Laboratory.

			The applicant has sought the advance ruling on 1. whether the exemption to a 'defence formation for preparation and generation of E way bills is applicable to Ordnance factories & other Central Government & Public Sector Undertakings (PSU's) that function under the Ministry of Defence; 2. whether exemption on payment of GST on transport of 'military or defence equipment through a goods transport agency applicable to goods transported by organization; 3. Whether availing of eligible Input Tax Credit on inputs & input services relating to the main business activity of manufacturing is allowed against GST liability on renting of immovable property; 4. Whether Input Tax Credit is allowable in respect of manpower services hired for industrial canteen and LPG cylinders refilled for use in industrial canteen; and 5. Whether Input Tax Credit is allowable in respect of medicines purchased in factory hospital and other inputs and input services used in factory hospital. **Views of Maharastra Authority of Advance Ruling:** The Coram ruled that the exemption to a 'defence formation for preparation and generation of E way bills is applicable to Ordnance factories & other Central Government & Public Sector Undertakings (PSU's) that function under the Ministry of Defence.

			The Authority ruled that exemption on payment of GST on transport of 'military or defence equipment through a goods transport agency applicable to goods transported by organization. The AAR held that availing of eligible Input Tax Credit on inputs & input services relating to the main business activity of manufacturing is not allowed against GST liability on renting of immovable property. The AAR said that Input Tax Credit is not allowable in respect of manpower services hired for industrial canteen and LPG cylinders refilled for use in industrial canteen. Lastly, the AAR ruled that Input Tax Credit is allowable in respect of medicines purchased in factory hospitals and other inputs and input services used in factory hospitals and it would be applicable with effect from 01.02.2019, and not for the prior period. **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that the Input Tax Credit (ITC) is not allowable on Food and Beverages consumed in Industrial Canteen.
Emerald Court Co-operative Housing Society Limited	**Liable to pay GST on maintenance charges (by whatever name called) collected from its members if the monthly subscription or contribution be charged from the members is more than Rs. 7,500/- per month.** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA-113/2019-20/B-29, Mumbai, dated 13.07.2021**	**Facts of the Case:** The applicant, Emerald Court Co-op Housing Society Ltd. is a Co-operative Housing Society (CHS). It looks after the upkeep of the society and its members. The CHS provides services to its members in the form of facilities or benefits like security, cleaning, repairs, water, common electricity, etc. It also arranges to pay for the ancillary services like accounting, auditing, caretaker, etc. Presently, the CHS is raising monthly bills on its members which consist of 2 parts, one is the property tax on which GST is not being charged and another is 'Maintenance charges' on which GST is being charged.

			The applicant has sought the advance ruling on the issue of chargeability of GST on such transactions since there could be no sale by the Co-operative Housing Societies to their own permanent members, for the doctrine of mutuality would come into play. To elaborate, CHS treated itself as the agent of the permanent members entirely and advanced the stand that no consideration passed for the services rendered by the society to its members and there was the only reimbursement of the amount by the members and therefore no GST could be levied. **Views of Maharastra Authority of Advance Ruling:** The Coram ruled that the applicant is liable to pay GST on maintenance charges (by whatever name called) collected from its members if the monthly subscription or contribution be charged from the members is more than Rs. 7,500/- per month. "In view of the amended Section 7 of the CGST Act, 2017, we find that the applicant society and its members are distinct persons and the amounts received by the applicant, against maintenance charges, from its members are nothing but consideration received for supply of goods/services as a separate entity. The principles of mutuality. which has been cited by the applicant to support its contention that GST is not leviable on the maintenance charges collected by them from its members, is not applicable in view of the amended Section 7 of the CGST Act. 2017 and therefore, the applicant has to pay GST on the said amounts received against maintenance charges, from its members," the AAR ruled.

			Conclusion: The Maharashtra Authority of Advance Ruling (AAR) ruled that housing societies should pay Good and Service Tax (GST) on Maintenance Charges if Members' monthly contribution exceeds Rs. 7,500.
Arco Electro Technolo-gies Pvt. Ltd.	**Railway parts such as Brush Holder Assembly and parts, Lead Wires for locomotives and Insulating Rods Locomotives manufactured as per the specification and drawings of Indian Railways.** **12% GST on Brush Holder Assembly, Parts, Lead Wires for Locomotives when manufactured as per drawings of Indian Railways** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA- 61/2020-21/B- 31, Mumbai, dated 13.07.2021**	**Facts of the Case:** The Applicant, M/s. Arco Electro Technologies Pvt. Ltd. is manufacturing and supplying Brush Holder Assembly and Parts, Lead Wires and Insulating Rods for locomotives. The application is with regard to classification of these items and applicable GST rate thereon. Subject goods are supplied to Indian Railways (IR) and other customers who ultimately supply to Indian Railways after assembly of their products. The subject goods are manufactured as per specification and drawings of Indian Railways. Currently, Brush Holder Assembly (made of non-ferrous castings and are assembled with springs, axles etc) and Lead Wires with fittings (made of specialized Fluonlex Cables designed for Rolling stock and fitted with Terminal Lugs, Tubes) are being classified under HSN Heading 8503 and 8544 respectively and Brush Holder Support Pin / Terminal Support / Brush Holder Arm for Locotives (Glass Bonded Mica Insulators with steel inserts & machined for fitment in Railway machines) are classified under HSN Heading 8547. The applicant sought the advance ruling in respect of classification of the Railway parts such as Brush Holder Assembly and parts, Lead Wires for locomotives and Insulating Rods Locomotives manufactured as per the specification and drawings of Indian Railways.

			Views of Maharastra Authority of Advance Ruling: The Coram of Rajiv Mangoo and T.R.Ramnani ruled that the products Brush Holder Assembly and parts, Lead Wires and Insulating Rods are to be classified under heading 8607 only when they are manufactured as per the drawings and specifications given to the applicant by the Indian Railways and only when the said goods are used in traction motors meant for Railway locomotives. **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 12% GST on Brush Holder Assembly, parts, Lead Wires for locomotives, Insulating Rods Locomotives only when manufactured as per drawings of Indian Railways.
Maharashtra State Dental Council	**18% GST payable on Online and Offline tendering** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA-125/2019-20/B-30, Mumbai, dated 13.07.2021**	**Facts of the Case:** The Dentists Act. 1948 regulates the profession of dentistry, whereas it is expedient to make provision for the regulation of the profession of dentistry and for that purpose to constitute the applicant, Maharashtra State Dental Councils to provide help, assistance and guidance for the benefit and welfare to the Dental Practitioner who were registered with this council. Complaints are also lodged about the unethical behaviour, self-glorification, advertisement of the lay press etc. making the enquiry of the Dental Practitioners, against whom the complaints are lodged, as one of the important functions of the Maharashtra State Dental Council (the applicant). Applicant is not a profit making institution and the income earned by way of fees is used for the maintenance of this council and the income and expenditure is audited by the office of Chief Auditor. Local Fund Account. Maharashtra State.

			The applicant has sought advance ruling in respect of various issues namely 1. Whether online tendering to be considered as Supply of Goods or Supply of Service? 2. Whether offline tendering to be considered as Supply of Goods or Supply of Services. 3. Under which tariff head the Online Tendering should get taxed. 4. Under which tariff head the Offline Tendering should get taxed. 5. If tendering is service then whether it will be considered as administrative services or specific Service. 6. Whether the activities conducted by the Maharashtra State Dental Council are the "Registration Activities and their related activities laid down in the Act" exempted under the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Registering Fees paid under Rule 73 of the Bombay Dentists Rules, 1951 by the Prospective Dental Practitioners to the Council is exempted from the levy of Goods and Services tax. **Views of Maharastra Authority of Advance Ruling:** The Coram that Online tendering will be considered as Supply of Services and offline tendering in its entirety involving sale of form, payment of tender fees and submission of bids etc. will be considered as Supply of Services.

			The AAR ruled that Online and Offline tendering are covered under services heading 9997. The AAR ruled that activities conducted by the Maharashtra State Dental Council are the "Registration Activities and their related activities laid down in the Act" are not exempted under the Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 18% GST payable on Online and Offline tendering.
Nagpur Waste Water Management Pvt. Ltd.	**Whether the "Tertiary Treated Water" supplied by the applicant to Maharashtra State Electricity Generating Co. Ltd. (MAHAGENCO) is taxable under the GST law?** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA- 65/2019-20/B-35 ,Mumbai, dated 27.07.2021**	**Facts of the Case:** The applicant, M/s Nagpur Waste Water Management Private Limited is a Private Limited Company registered under CGST Act and Maharashtra Goods and Service Tax Act, 2017 w.ef. 01.07.2017. Nagpur Municipal Corporation (NMC) is constituted under the city of Nagpur Corporation Act, 1948 Therefore. NMC is "Local Authority". The NMC is required to provide the services of management of the sewage system within the city of Nagpur. NMC. in order to manage the sewage system of Nagpur city and to treat the sewage water generated in Nagpur City, has decided to set up and operate the Sewage Treatment Plant (STP) located at Bhandewadi. Nagpur. NMC has appointed the applicant, under PPP contract basis, for treatment of sewage water. The applicant is therefore awarded a contract to set up and operate the Sewage Treatment Plant (STP) located at Bhandewadi. Nagpur on Build Operate and Transfer basis (BOT basis).

			The applicant has sought the advance ruling on the issue of whether GST is applicable on the "Tertiary Treated Water" supplied by the applicant to Maharashtra State Electricity Generating Co. Ltd. and if applicable at what rate. **Views of Maharastra Authority of Advance Ruling:** The two member bench of Rajiv Mangoo and T.R.Ramnani ruled that the term 'waters' is specifically prescribed for the levy of taxes under Entry No.24 of schedule rates. Eventually, we conclude and hold that the purified "Tertiary treated water" is covered under Entry No. 24 and 18% GST is applicable on supply of "Tertiary Treated Water". **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 18% GST is leviable on "Tertiary Treated Water" supplied to Maharashtra State Electricity Generating Co. Ltd. (MAHAGENCO).
MAN Energy Solutions India Private Limited	**5% GST on Supply of MDEs and parts exclusively and directly to Shipyards or Indian Navy for use in manufacture of Ships, Vessels, Boats, Floating Structures** **(Maharashtra Authority of Advance Ruling)**	**GST-ARA- 56/2019-20/B- 41 ,Mumbai, dated 30.07.2021**	**Facts of the Case:** The applicant, MAN Energy Solutions India Private Limited, is engaged in design and manufacture of two-stroke and four-stroke engines. Applicant's range of products includes complete marine propulsion systems, turbo machinery units for the oil & gas as well as the process industries and turnkey power plants. Applicant is also engaged in manufacturing and supply of parts of engines, like piston, con rod, etc. Applicant assembles and manufactures diesel engines by using various imported or locally procured parts and also trades in imported diesel engines. The supply of engines and parts of engines is made by importing or locally procuring the parts. These parts are not assembled by the Applicant in India.

			The applicant has sought the advance ruling on the issue whether the marine diesel engine, and parts supplied by the Applicant exclusively to ship building companies / shipyards or Indian Navy for use and application in ships, vessels, boats, floating structures etc. are to be classified under Sr. No. 252 of Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017. **Views of Maharastra Authority of Advance Ruling:** The two-member bench concluded that the supply of MDEs and parts thereof supplied by the Applicant exclusively and directly to ship building companies/shipyards or Indian Navy for use in manufacture of ships, vessels, boats, floating structures etc. will be classified under Sr. No. 252 of Notification No. 1/2017- C.T. (Rate), dated 28-6-2017. If the applicant supplies the impugned goods to parties other than ship building companies and for other purposes, it would not be covered in the said entry and is liable to be taxed at respective higher rates as per schedule entry. "Marine diesel engine, and parts thereof will be covered under Sr. No. 252 of Notification No. 1/2017-C.T.(Rate), dated 28-6-2017, only when used in the manufacture of goods falling under 8901, 8902, 8904, 8905, 8906, 8907 and supplied only to ship building companies/shipyards or Indian Navy. Items which do not conform to "parts of marine diesel engines" will not be covered nder the said Sr. No. 252 of Notification No. 1/2017-C.T.(Rate), dated 28-6-2017." **Conclusion:** The Maharashtra Authority of Advance Ruling (AAR) ruled that 5% GST on supply of MDEs and parts exclusively and directly to shipyards or Indian Navy for use in manufacture of ships, vessels, boats, floating structures.

Pioneer Bakers	**Supply of items such as birthday stickers, candles, birthday caps, and snow sprays whether comes within the purview of composite supply and attract GST @5% under the composite scheme.** **(Odisha Authority of Advance Ruling)**	**06/ODISHA-AAR/2020-21 dated- 09.03.2021**	**Facts of the Case:** The Applicant, Pioneer Bakers is a registered Partnership Firm and has been operating under the Brand name of "Go cool" since the year 1997. It has established itself as a brand in the field of bakery items and especially in cakes. Further, it has several outlets operating in the state of Odisha and offers a wide range of goods and services in the business of bakery items. The principal business of the Applicant is producing and selling bakery products viz cakes, artisan cakes, pastries, pizza, patties, sandwiches, self-manufactured ice-creams, handmade chocolates, cookies, beverages, etc. in its outlets. It is pertinent to mention here that; the applicant offers a number of customization options to its customers with respect to the above-mentioned products. The said bakery products are manufactured either in the premises of the outlets itself and served to the customers or in its workshop which is located nearby to the premises of the outlet of the Applicant. It is pertinent to mention here that generally the raw materials such as raw chocolates, cookies, etc. are manufactured in the workshops as these goods require heavy machinery and are labour intensive in nature, and due to these features, the same is prepared in the nearby workshop and brought to the outlets for further customization. It is hereby clarified that nothing is sold directly from the workshop and each and every item is brought to the outlet for sale. **Views of Odisha Authority of Advance Ruling:** The Coram of G.K.Pati and Dilip Satpathy ruled that supply of Cakes, bakery items, ice creams, chocolates, drinks, and other eatable products prepared at the premises of the applicant and supplied to the customers from the counter with the facility to consume the same in the air-conditioned premises itself covered under the restaurant services.

			The Authority observed that supply of items such as birthday stickers, candles, birthday caps, snow sprays, etc related items which are essentially used in birthday celebration cannot be classified as Composite Supply defined under Section 2 (30) of the CGST Act, 2017 and Section 2 (30) of the OGST Act, 2017 wherein the principal supply of goods consists of bakery items, chocolates while the supply of services includes the supply of air-conditioned place to sit and to celebrate a birthday. "The sale of handmade chocolates which are manufactured in the workshop of the Applicant and are utilized for the purpose of providing other services such as shakes, brownies and are also retailed by packing in different containers as per the choice of the customer will be covered under the under the restaurant services," the AAR ruled. The AAR added, items such as birthday stickers, candles, birthday caps, Balloon, Carry Bags, snow sprays, etc, we observe that the said related items are being purchased and sold as such without any further processing in the restaurant. These items are not articles of foods and drinks and are covered under goods. The sale of such bought-out goods as such is not a service but a sale of goods. Entry No. 7 of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 relating to the supply of goods. Since the goods as specified are supplied and output tax is payable on the same, the applicant is eligible to take applicable input tax credit which is admissible as per the GST laws.

			"We observe that raw chocolates are manufactured in the nearby workshop of the applicant which is utilized for the purpose of providing other services such as shakes, brownies and is also retailed by packing in different containers as per the choice of the customer. In no case, chocolates are sold as such from the workshop but are customized and sold from the outlets. Therefore, we agree with the submission of the Applicant that the sale of handmade chocolates which are manufactured in the workshop and brought to the outlets for further processing will be covered under the 'restaurant services'," the AAR said. The AAR held that the supply of the items namely chocolate, cookies which are prepared in the nearby workshop of the Applicant and then processed/customized in the outlets of the Applicant before selling to the customers from the premises of the Bakery shop of the Applicant qualifies as 'composite supply' under Section 2(30) of the CGST Act. The said composite supply shall be deemed to be a supply of service as per Entry 6(b) of Schedule II to the CGST Act and more specifically the 'Restaurant Service' and rate of tax is 5% without any input tax credit. **Conclusion:** The Odisha Authority of Advance Ruling (AAR) ruled that the Supply of items such as birthday stickers, candles, birthday caps, snow sprays does not qualify as Composite Supply.

URC Construction Pvt. Ltd.	**What is the applicable rate of Goods and Service Tax [GST] on the Contract awarded by Ms. NBCC (INDIA) LIMITED, an Executing Agency of behalf of Ms. SAIL, for construction of ISPAT Post graduate Medical Institute and super-specialty Hospital at Rourkela Steel Plant for SAIL in the State of Odisha on Design, Engineering, Procurement and Construction (EPC) basis?** **(Odisha Authority of Advance Ruling)**	**07/ODISHA-AAR/2020-21 dated- 09.03.2021**	**Facts of the Case:** Ms. URC Construction Private Limited filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the OGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act. The applicant has been awarded a contract by M/s NBCC vide letter no. NBCC/CGM (CPG)/2019/122 dated 15-01-2019 for Construction of ISPAT Post Graduate Medical Institute and Super Specialty Hospital at Rourkela Steel Plant for SAIL in Odisha on Design, Engineering, Procurement and Construction (EPC) basis at a total contract value of Rs. 259,60,13,257.00 (Rupee Two Hundred Fifty-Nine Crores Sixty Lakhs Thirteen Thousands Two Hundred Fifty-Seven only) inclusive of all taxes, duties, cess, statutory levies with a rider that contract Price will be adjusted prospectively for any increase/decrease in GST rate on Works Contract notified by Government of India. Issue: What is the applicable rate of GST on the contract awarded by M/s NBCC(India) Ltd, an executing agency on behalf of M/s SAIL for construction of ISPAT Post Graduate Medical Institute and super speciality hospital at Rourkela Steel Plant for SAIL in the state of Odisha on Design, Engineering, Procurement and Construction(EPC) basis? **Views of Odisha Authority of Advance Ruling:** The Advance Ruling is sought on the question of applicable rate of Goods and Service Tax, we would like to make it clear that the provisions of both the CGST Act and the OGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the OGST Act

			Conclusion: The rate of GST on supply of works contract service which is being supplied to M/s SAIL, Rkl for construction of ISPAT Post Graduate Medical Institute and Super Specialty Hospital would merit entitlement for concessional rate of GST @ 12% [CGST @ 6% + SGST @ 6%] in terms of Notification No. 11/2017- Central Tax (Rate) dated 28-06-2017 (and as amended). This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.
M/s PSK Engineering Construction & Co	**18% GST is applicable on services provided to Tamilnadu Generation and Distribution Company Ltd. (TANGEDCO) for carrying out retrofitting work for strengthening NPKRR Maaligai against seismic and wind effects.** **(Tamil Nadu Authority of Advance Ruling)**	**TN/08/ARA/2021 dated 25.03.2021**	**Facts of the Case:** The Applicant, PSK Engineering Construction & Co stated that they have been awarded the contract to carry out Retrofitting works for strengthening the NPKRR Maaligai against Seismic & wind effect and Modification of Elevation of the said building in TNEB Headquarter. The applicant has sought the advance ruling in respect of 1. What is the rate of GST to be charged on providing works contract services to TANGEDCO for carrying out retrofitting work for strengthening the NPKRR Maaligai against seismic and wind effect and modification of elevation in TNEB headquarters building at Chennai. 2. Whether the entry in Sl.No.3 item (vi) of the Notification no.11/2017-Central Tax (Rate) dated 28.06.2017 as amended is applicable to the applicant in instant case.

			Views of Tamil Nadu Authority of Advance Ruling: The Coram ruled that The rate of GST to be charged on the services provided by the applicant to TANGEDCO for carrying out retrofitting work for strengthening the NPKRR Maaligai against seismic and wind effect and modification of elevation in TNEB headquarters building at Chennai is 18% (9%CGST and 9% SGST) as per SL.No.3(xii) of Notification dated June 28, 2017, as amended. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that 18% GST is applicable on services provided to Tamilnadu Generation and Distribution Company Ltd. (TANGEDCO) for carrying out retrofitting work for strengthening NPKRR Maaligai against seismic and wind effects.
Tiruppur City Municipal Corporation	**Municipal Corporation** **(Tamil Nadu Authority of Advance Ruling)**	**TN/15/ARA/2021 dated 28.04.2021**	**Facts of the Case:** M/s. TIRUPPUR CITY MUNICIPAL CORPORATION, the 'Applicant') is a "Municipality" as defined in clause (e) of article 243P of the Constitution. The applicant has stated that they are rendering the following functions directly as well as through contractors (through tender process) and collecting Fee from parks, Market fee-daily, Market fee -weekly, Fee for entry vehicle in the market, Fees for pay and use toilets, slaughter house fees, Fees for bays in bus stand (bus stand entrance fee collection), Bus -stand (others), charges for TV advt. in bus-stand, locker rent provided in bus-stand, cycle stand, scooter, auto, four wheeler stand in bus stand and other places, Bunk stalls, annual track rent cable operator fee (Optical fibre laying fee).

			The Questions for which the ruling is sought are: Q.1. Advance Ruling is required in respect of SI.No. 1 to 5, 7 to 9 as whether the services rendered by them are exempted or not under the Notification No. mentioned against each S1.No. **Answer:** **1. Maintenance of Park:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 as amended vide Notification No. 16/2018 dated 26.07.2018 **2. Providing Market facilities –daily:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 **3. Providing Market facilities –weekly:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 **4. Providing bays in bus stand:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 as amended vide Notification No. 16/2018 dated 26.07.2018 **5. Locker rent facilities:** Facility of providing locker for rent directly by the applicant is taxable for the reason that this does not fall under Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 and is taxable. **7. Providing Slaughter house facilities:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 as amended vide Notification No. 16/2018 dated 26.07.2018

			8. Providing Toilet facilities: Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 as amended vide Notification No. 16/2018 dated 26.07.2018 **9. Providing stand for cycle, scooter, auto, four wheeler stand in bus stand and other places:** Not a Supply of Service as per Notification No. 14/2017-C.T.(Rate) dated 28th June 2017 as amended vide Notification No. 16/2018 dated 26.07.2018 Q.2 In respect of services rendered by them through tender contractors as mentioned in respect of SI.No. 1 to 9 are exempted or not under the Notification No. mentioned against each SI.No. **Answer:** The applicant supplies the 'Right to collect the fees/right to certain amenities' to the contractors and the supply undertaken by the contractors are as per the tender conditions which is an independent supply. The applicability of the Notification to the supplies of the contractors is not answered as per S.95(a) read with S.103(1) of the GST Act. (ii) In respect of SI.No.10 to 12 instead of reverse charge we collected tax under direct charge from the service availers who are registered with GSTN w.e.f 25.01.2018 and whether it can be regularized or not. **Answer:** The question seeks regularization of the payment made by them considering the same as a technical lapse, which is not in the purview of this authority as per Section 97 (2) and therefore, the question is not admitted under Section 98(2) of the Act

			Q.3 In respect of SI.No.14 they are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. We require advance ruling whether composite supply can be applied or not for classifying the said service as renting of immovable property service and reverse charge can be applied or not for collecting GST as per S.No. 5A of Notification 13/2017 CT(R)dated 28.06.2017 as amended form the telephone operators who are GSTN holders. **Answer:** Supply of allowing the road cut for laying the OFC and allowing the space alongside the road for the OFC lines are not 'composite supply' as defined under S. 2(30) of the GST Act, 2017 in as much as these two supplies are not made in conjunction with each other in the ordinary course of business. Hence Composite supply cannot be applied for classifying the said service as `Renting of Immovable property service' Q.4 In respect of S.No. 13 full exemption is applicable or not as noted against the SI.No. (ii) In respect of S.No. 15 the renting of immovable property service rendered by us as a local authority to (i) pure State Govt. Offices, (ii) Central Government Offices, Co-operative societies, (iii) Nationalised Banks are fully exempted nor not as per SI.No. 8 of Notification 12/2017 dated 28.06.2017.

			Answer: The exemption provided in the entry no. 12 of Notification 12/2017 dated 28.06.2017 will be applicable to the applicant, in case of the applicant providing the 'residential dwellings' owned by them for use as residence (i) Pure state Govt. offices (viz) Asst. Director of L F Accounts, Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Gout offices (viz) post offices are fully exempted or not as per entry SI no 8 of the table to Notification 12/2017 dated 28.06.2017 (ii) Co-operative society (viz) Chindhamani Super Market, Jeeva Co-Op Society, TNSTC Staff Society, Jeeva Co-Op Society and transport corporation TNSTC are exempted or not as per entry Si no 8 of the table to Notification 12/2017 dated 28.06.2017. (iii) Nationalised Banks are exempted or not as per SI no 8 of the table to Notification 12/2017 dated 28.06.2017 Service of renting of immovable property by the applicant to another Central/State government/Union territory or Local authority alone is exempted from tax as per Sl. No. 8 of Notification 12/2017 dated 28.06.2017 and the services of renting of immovable property to other than Central/State Government, Union Territory or Local authority, are not exempted under SI No. 8 of the table to Notification 12/2017 dated 28.06.2017

M/s Unique Aqua Systems	Whether the Services provided by the applicant to the recipient i.e. The Greater Chennai Corporation is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Panchayat under article 243G and Municipality under article 243W of the Constitution and eligible for benefit of exemption provided under Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017. (Tamil Nadu Authority of Advance Ruling)	TN/09/ARA/2021 dated 30.03.2021	**Facts of the Case:** The Applicant, Unique Aqua System has stated that they have entered into a contract with the Greater Chennai Corporation based on which they have been awarded with the project of Operation and Maintenance of High Quality Treated Drinking Water Plant for the "Amma Kudineer (Drinking Water Plant) Project". As per the Contractual conditions of work order, they have supplied, installed and commissioned high quality drinking water plants at different locations as required by the Greater Chennai Corporation (GCC) on the land allotted to them. They have been provided with raw water and electricity free of cost for the operation and maintenance of the drinking water plant to dispense treated water to the General Public. The consideration for the above-mentioned service is paid based on the quantity of treated water dispensed to the General Public. The beneficiaries are identified by GCC based on their residential status of the Ward in which the water treatment plant is located. The treated water is distributed by way of smart cards issued to the beneficiaries by GCC. The applicant has sought the advanced ruling on the issue whether the Services provided by the applicant to the recipient i.e. The Greater Chennai Corporation is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Panchayat under article 243G and Municipality under article 243W of the Constitution and eligible for benefit of exemption provided under Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017.

			Views of Tamil Nadu Authority of Advance Ruling: The Coram ruled that the Supply provided by the applicant to the recipient i.e. The Greater Chennai Corporation based on the agreement to provide RO Plant and undertake O&M of the same, being not a "Pure service" but a composite supply of goods & Services, they are not eligible for benefit of exemption provided at Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that No GST Exemption on Operation and Maintenance of High Quality Treated Drinking Water Plant for the "Amma Kudineer Project.
M/s SHV Energy Private Limited	**1. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services for laying of transfer pipeline and the foundation and structural support for such pipeline which is intended for unloading Propane/Butane from the Vessel/ Jetty to the Terminal?** **2. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services used for setting up refrigerated storage tank and input credit of goods and services used for foundation and structural support for such tanks?**	**TN/10/ARA/2021 dated 31.03.2021**	**Facts of the Case:** The applicant, SHV Energy Pvt. Ltd. has stated that their Tuticorin terminal is contemplating expansion to increase the LPG capacity from 3,50,000 Metric Tons Per Annum (MTPA) to 12,00,000 MTPA. The expansion will involve suitable augmentation of existing facilities including Utilities and Offsite systems. The applicant has sought the advance ruling on the issue 1. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services for laying of transfer pipeline and the foundation and structural support for such pipeline which is intended for unloading Propane/Butane from the Vessel/Jetty to the Terminal? 2. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services used for setting up refrigerated storage tank and input credit of goods and services used for foundation and structural support for such tanks?

	3. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services for setting up of Fire Water reservoir(tank) and input credit on goods and services used for foundation and structural support for such reservoir? **(Tamil Nadu Authority of Advance Ruling)**		3. Whether the applicant is eligible for availment of input tax credit of GST paid on goods and services for setting up of Fire Water reservoir(tank) and input credit on goods and services used for foundation and structural support for such reservoir? **Views of Tamil Nadu Authority of Advance Ruling:** The Coram ruled that the applicant is not eligible for availment of input tax credit of GST paid on goods and services for laying of transfer pipeline and the foundation and structural support for such pipeline which is intended for unloading Propane/Butane from the Vessel/ Jetty to the Terminal. "The applicant is eligible for availment of input tax credit of GST paid on goods and services used for setting up refrigerated storage tank including the structural support thereon as per the Purchase Order No. 4500405026 dated 11.03.2020 subject to the condition that the tanks are capitalized in their books of accounts as Plant and Machinery' and not as Immovable Property' and the applicant are not eligible to avail input credit of goods and services used for Pile foundation' as per the Purchase Order No. 4500401679 dated 10.02.2020," the AAR ruled. The Authority further added that the applicant is eligible for availment of input tax credit of GST paid on goods and services for setting up of Fire Water reservoir(tank) including the structural support thereon as per the Purchase Order No. 4500405071 dated 11.03.2020 subject to the condition that the tanks are capitalized in their books of accounts as Plant and Machinery and not as Immovable Property and the applicant are not eligible to avail input credit of goods and services used for ' Pile foundation' and input credit on goods and services used for such pile foundation.

			Conclusion: The Tamil Nadu Authority of Advance Ruling (AAR) ruled that the Input Tax Credit (ITC) is not available on GST paid on laying of transfer pipeline, foundation and structural support for pipeline.
M/s Tamilnadu Water Supply and Drainage Board	**The service of Geophysical survey investigation is exempted from Goods and Service Tax terms of entry no.3 of the Notification 12/2017-Central Tax (Rate) dated 28.06.2017 subject to conditions.** **(Tamil Nadu Authority of Advance Ruling)**	**TN/11/ARA/2021 dated 31.03.2021**	**Facts of the Case:** The Applicant, Tamil Nadu Water Supply and Drainage Board has stated that it is a government Organization/Authority executing the water supply and underground sewerage works for urban local bodies/village panchayats. They have established totally 4 material quality testing labs to ensure the quality of materials used by the contractors under the Turnkey system in the works executed by TWAD. Quality control laboratories in TWAD Board comprising one for each region at Coimbatore (established in 1999), Madurai (2001), Trichy (2014) and Tindivanam (2014) with test facilities as per IS standard specifications are functioning. The laboratories are fully equipped with the necessary machinery, equipment, and instruments for conducting the parametric tests as per the procedures postulated in the relevant Bureau of Indian Standards. The applicant has sought the advance ruling on the issue of applicability of the Notification issued under the provisions of the CGST Act,2017 in respect of Rendering "Pure Services" (testing of materials for quality) by TWAD Board which is the Governmental Authority relating to water supply and sewerage schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243 W of the constitution. Therefore, the services (Quality material testing charges) rendered by the TWAD Board are exempted from CGST under Sl.No.3 of the Notifications No.12/2017 CT (Rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.

			Yet another ruling was sought in respect of the applicability of Notification issued under the provisions of the CGST Act,2017: For conducting Geological surveying and testing (Pure Services) to identify the water potentiality by TWAD Board which is Governmental Authority relating to water supply schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243W of the constitution. Therefore, the services (Geological surveying and testing charges) rendered by the TWAD Board are exempted from CGST under SL.No.3 of the Notification 12/2017-CT (rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended. **Views of Tamil Nadu Authority of Advance Ruling:** The Coram ruled that the services provided by the applicant, namely, Quality material testing works are not exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017- Central Tax (Rate) dated June 28, 2017, as amended. "The service of Geophysical survey investigation is exempted from Goods and Service Tax terms of entry no.3 of the Notification 12/2017- Central Tax (Rate) dated 28.06.2017 subject to conditions," the AAR ruled. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that the Service of Geophysical survey investigation is exempted from GST.

Daebu Automotive Seat India Private Limited	**28% GST applicable on 'Track Assembly', an accessory to Motor Vehicle** **(Tamil Nadu Authority of Advance Ruling)**	**"TN/17/ARA/2021 DATED 07.05.2021"**	**Facts of the Case:** The applicant, Daebu Automotive Seat India Private Limited is a manufacturer of Seat Components and Accessories, which is added to the manufacturing of Full Seat of four-wheelers. The parent company which is situated in Korea is called DAS Corporation and they are engaged in the manufacture of automobile seats. The applicant has submitted for clarity that they have requested for determination of the classification of only the finished goods viz., Track assembly meant for front Left/right. seat. The various sub-assemblies (which are also named in their typed set to their application) that go into making their product viz., Track assembly are essentially parts of the track assembly. The applicant has sought the Advance Ruling in respect of 1. What is the correct classification of goods manufactured by the applicant viz., "Automotive Seating System"? 2. Will it fall under CH 87089900 attracting GST @ 28% or under CH 940199990 attracting GST @ 18% ? **Views of Tamil Nadu Authority of Advance Ruling** The Coram observed that the product 'Track Assembly' manufactured and supplied by M/s. Daebu Automotive India Private Limited is classifiable under CTH 8708 of the First Schedule to the Customs Tariff Act, 1975 as applicable to GST as per Explanation (iii) to Notification 1/2017-Central Tax (Rate) dt 28.06.2017 and G.O. Ms No. 59, Commercial Taxes and Registration (B1) dt 29th June 2017.

			The AAR ruled that The applicable rate of tax is 14% CGST as per entry Sl.No.170 of Schedule -IV of the Notification 1/2017-Central Tax (Rate) dt 28.06.2017 as amended and 14% SGST as per entry sl. No. 170 of Schedule-IV of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that 28% GST applicable on 'Track assembly', which is an accessory to Motor vehicles.
KLF Nirmal Industries Private Limited	**ITC eligible on Input Services used in Installation of Solar Power Panel** **(Tamil Nadu Authority of Advance Ruling)**	**TN/19/AAR/2021 dated 18.06.2021**	**Facts of the Case:** The applicant, KLF Nirmal Industries Private Limited has stated that their company has a plant in Erode for extracting edible oils etc. The applicant is in the process of installing/ has installed a captive roof top solar grid connected power plant in the edible oil extracting plant. They have furnished the copy of the order placed on KCP Solar Industry vide purchase order reference KLF/PO/PRI/20-21/43 dated 6.8.2020 and invoice no 135/20-21 dated 10.9.2020. The solar panels have been installed at the top of the roof of the factory building and oil tanks. Electricity generated from the solar plant has been fully consumed to produce taxable goods. A consolidated contract was placed for design, engineering, supply, erection of 265Kw Rooftop Grid Solar PV Power Plant as per MNRE & IEC Standards. The system includes 790 panels. Each panel has 335 watt peak and a total capacity is 264.65 KW. They have stated that the Roof top Grid solar PV Power is for captive consumption within the premises. There is no third-party sale and the units generated by the solar plant are consumed for operating the edible oil extraction plant.

			The operation is done by a reference signal received by the smart meter from the main panel which is synchronised with the solar system. In case there is a failure of the smart meter there is a system called reverse base relay protection fixed in the main panel room which will shut down the solar generation. In order to avoid any discharge to the grid (zero discharge). Solar generation is done only when there is a consumption (discharge) in the main panel which is being sensed by the smart meter. If there is no consumption the smart meter will shut down the complete solar system. The applicant has sought the advance ruling on the issue 1. whether the company is eligible to take input tax credit as inputs/ capital goods or input services of the items used in Design, Engineering, Supply, Execution (EPC) of 265KW Rooftop Grid Solar PV Power Plant as per MNRE & IEC Standards 2. Yet another issue raised was whether the company is eligible to take input tax credit for inputs and services for running the solar plant. **Views of Tamil Nadu Authority of Advance Ruling:** The two-member bench ruled that the applicant is eligible for availing input tax credit as inputs/capital goods or input services of the items used in Design, Engineering, Supply, Execution (EPC) of 265KW Rooftop Grid Solar PV Power Plant as per MNRE & IEC Standards procured from M.s KCP Solar Industries as they have been found to comply with the provisions of Sections 16(1) and (2), 17(5) of the CGST Act,2017 and that they are found to be using the electricity so generated captively only in the process of manufacture of edible oils, which is a taxable commodity.

			"In respect of eligibility to credit of goods/services utilised in running the plant, no ruling is pronounced as the details of such input goods/ services which are proposed to be or used in running the plant have not been furnished before us," the AAR said. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) eligible on input services used in installation of Solar Power Panel.
Indian Institute of Management, Tiruchirapalli.	**The Indian Institute of Management (IIM) was required to discharge Liability on a reverse charge basis on the supply of Legal services.** **(Tamil Nadu Authority of Advance Ruling)**	**TN/20/AAR/2021 dated 18.06.2021**	**Facts of the Case:** The applicant, M/s. Indian Institute of Management, Tiruchirapalli is an educational institution of excellence established in the year 20l1 with the objectives of imparting high-quality management education and training, conducting industrial and management research, etc. The institute was established under the auspices of the Ministry of Human Resources Development (MHRD), Government of India as a premier educational institution and is renowned in India for its management education programs. The applicant sought the advance ruling on the issue of 1. Whether Indian Institute of Management, Tiruchirappalli(IIM) is a Government Entity under GST Law. 2. If the answer to question is in the affirmative, whether 2.1 The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017. 2.2 Whether the applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) and 9(4) of the CGST Act, 2017.

			2.3. Whether the entry provided as under is applicable A) Serial No.3/3A of Notification 12/2017 is available to IIMT. B) Composite supply of works contract provided to the applicant is covered by Serial No.3 (vi) of Notification 11/2017 dated 28th June 2017. **Views of Tamil Nadu Authority of Advance Ruling:** The Coram of Kurinji Selvaan V.S. and Senthil Velavan B. ruled that the Indian Institute of Management, Tiruchirappalli (IIM) is a Government Entity Under GST Law. The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 20I7 read, with Notification No. 50/2018-C.T dated September 13, 2018. "The applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) of the CGST Act, 20I7, in respect of Legal services received by them for which documentary evidence was submitted," the AAR said. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that the Indian Institute of Management (IIM) was required to discharge Liability on a reverse charge basis on the supply of Legal services.

Tamil Nadu Labour Welfare Board	**Tamilnadu Labour Welfare Board liable to make GST Registration.** **(Tamil Nadu Authority of Advance Ruling)**	**TN/21/AAR/2021 dated 18.06.2021**	**Facts of the Case:** The applicant, Tamil Nadu Labour Welfare Board has stated that they have been constituted by the Government of Tamilnadu in the year 1972 by Tamilnadu Labour Welfare Fund Act 7972 enacted by the Legislature of the State of Tamil Nadu with a view to promote the welfare of the employees and their family/dependents with the Minister of Labour, Govt of Tamilnadu as the Chairman of the Board to administer the Tamilnadu Labour Welfare Fund and such other actions as assigned by or under the Act. The Tamil Nadu Labour Welfare Board is executing and implementing various welfare schemes for the benefit of the workers who contribute to the Labour Welfare Fund. The Board is receiving contributions from employees and matching contributions from employers and Government of Tamilnadu to the fund. The applicant has sought the ruling on the issue in respect of 1. Applicability of GST registration to Tamil Nadu Labour Welfare Board 2. Applicability of GST towards the rental income received by the board from Government and business entities. 3. Applicability of Reverse Charge Mechanism for the rent on immovable properties received by the board from Government and business entities

			Views of Tamil Nadu Authority of Advance Ruling The Coram ruled that Tamil Nadu Labour Welfare Board, being a person liable to pay GST, has to get registered under GST. The rental income received by the applicant from Government and business entities are taxable to GST. "The applicant do not fall under the 'specified class of supplier of services' under Notification No.13/2017-C.T.(Rate) dated 28.06.2017 as amended by notification no.3/2018 – Central Tax(Rate) dated 25.01.2018 and therefore 'Reverse charge Mechanism' is not available to the applicant," the AAR said. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that Tamil Nadu Labour Welfare Board liable to make GST registration.
Kasipalayam Common Effluent Treatment Plant Private Limited	**18% GST payable on De-mineralized Water for Industrial use** **(Tamil Nadu Authority of Advance Ruling)**	**TN/23/AAR/2021 dated 18.06.2021**	**Facts of the Case:** The applicant, Kasipalayam Common Effluent Treatment Plant Private Limited has stated that they are an effluent treatment plant promoted by the dyeing units. They plan to buy the effluents from the dyeing units. The effluents will be delivered from the dyeing units to them through pipelines. The effluent will be processed at the plant and the resulting products water, sulphate solution, and brine solution will be sold at market rates. The delivery will be made either through pipelines/lorry. As per the norms of the Pollution control board, the resulting products can be sold to any member unit. The applicant sought the advance ruling on the issue of 1. Whether the classification of the supply of outputs as sale of goods is correct.

			2. Whether classification of water sold as Water (other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water solid in sealed container) under Heading 2201 is correct. 3. Whether classification of effluent purchased from dyeing as Other wastes from chemical or allied industries (3825 69 00) is correct. 4. Whether the method of arriving value for effluent using the net realization price method is correct as there are no comparable products and cost cannot be worked out **Views of Tamil Nadu Authority of Advance Ruling** The coram of Kurinji Selvaan V.S. and Senthil Velavan B. ruled that in the proposed Modus of purchase of 'Raw effluent', treat it on own account and supply the outputs at market rates, the classification of supply of outputs as sale of goods is correct. The classification of Water recovered, which is demineralized water for Industrial use is classifiable under CTH 2201 as Waters described under S.no.24 of Annexure -III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017. **Conclusion:** The Tamil Nadu Authority of Advance Ruling (AAR) ruled that 18% GST payable on De-mineralized water for Industrial use.

Krishna Bhavan Foods & Sweets	**Clarification on the rate of GST for their products listed in the application and the applicable HSN code** **(Tamil Nadu Authority of Advance Ruling)**	**TN/24/AAR/2021 dated 18.06.2021**	**Facts of the Case:** The applicant, Krishna Bhavan Foods and Sweets stated that they make ready-to-eat foods and that the ingredients are added by simply mixing/mixing a portion of salt, rice, and rice flour. These mixtures are the same as the mixture of flowers of vegetable plants. They also disclosed that they registered for a trademark in 2018, which is still pending. The applicant has sought the advance ruling on the issue of clarification on the rate of GST for their products listed in the application and the applicable HSN code. **Views of Tamil Nadu Authority of Advance Ruling** The Coram of Kurinji Selvaan V.S. and Senthil Velavan B. ruled that Branded mixes for dosa, idli, tiffin, health, and porridge will yield a Goods & Services Tax (GST) of 18 percent. The AAR said the products in question are all powdered food preparations. "The dosai mixes and idli mixes are packaged and sold as mixes to be mixed with water/boiled water/curd to make it as batter and the product sold is a powder and not a batter," it said while making it clear that it will attract GST at a rate of 18 percent and not 5 percent. "In the case at hand, the products are all food preparations in the form of powder. The Dosai Mixes and Idli Mixes are packed and sold as mixes which are to be mixed with water/boiled water/curd to make it as batter and the product sold is a powder and not batter. Therefore, the entry at 1O0A of Schedule-I is not applicable to the applicant's products. All the 49 products for which the ruling is sought are classifiable under CTH 2106 and the applicable rate is 9oh CGST and 9% SGST as provided at Sl.No. 23 of Schedule -lII of the Notification No. 07l2O17-C.T.(Rate) dated 28.06.2017 as amended and entry S.No. 23 of Schedule-Ill of Notification No. II (4/CTP./532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended," the AAR said.

			Conclusion: The Tamil Nadu Authority of Advance Ruling (AAR) ruled that ready-to-use powder mixes to attract 18% of Goods and Service Tax.
Vijayavahini Charitable Foundation	**18% GST payable on Drinking Water Supply through Mobile Tankers** **(Andhra Pradesh Authority of Advance Ruling)**	**AAR No. 14 /AP/ GST/2021 dated: 20.03.2021**	**Facts of the Case:** The applicant, M/s. Vijayavahini Charitable Foundation (VCF) undertakes, encourages, supports and aids charitable activities in relation to the poor in the areas of medical relief, education, health, vocation, livelihood, etc. It is also exempted under section 12A of the Income Tax Act, 1961. VCF has proposed to undertake the activity of providing pure and safe Drinking Water at an affordable cost for the underprivileged people in villages in the state of Andhra Pradesh where clean and potable drinking water is not available. The applicant has sought the advance Ruling on the issue of Whether supply of drinking water to general public in unpacked/unsealed manner through dispensers/mobile tankers by a charitable organisation at a concessional rate is covered under exemption of GST as per Sl.No 99 of Notification 02/2017 – central tax (Rate) dated 28/06/2017?Sl. No.99. "Intra state supplies of Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container]" The applicant contended that Entry No 99 of notification 12/2017 is applicable only if the water is sold in unsealed containers. In the instant case, water is sold in unsealed containers, which is an essential condition for the benefit of exemption. The villagers come and collect the water from the dispensing units/ Mobile Tankers. Moreover, the beneficiaries are the general public.

			Views of Andhra Pradesh Authority of Advance Ruling: The Coram ruled that the principal supply is the supply of purified water whereas the service component of distribution through mobile units is the ancillary service. The purified water is eligible to tax at the rate of 18% as it is not fit for exemption under serial no.99 of notification No. 2/2017- Central Tax (Rate) dated June 28, 2017. "It is invariably a composite supply and the rate of tax of purified water prevails, being the principal supply. The said supply is not covered under exemption and taxable at 18 percent," the AAR noted. **Conclusion:** The Andhra Pradesh Authority of Advance Ruling (AAR) ruled that 18% Goods and Service Tax (GST) is payable on Drinking water supply through mobile tankers.
Saddles International Automotive & Aviation Interiors Private Limited	**Whether the product namely 'Car Seat Covers' merits classification under HSN 9401? If not, what is the correct classification applicable to 'Car Seat Covers'?** **Is Sl.No.435A of Schedule IV of the Notification No 1/2017-Central Tax (Rate) dt: 28.06.2017 applicable to 'Car Seat Covers'? If not, what is the applicable entry under the said Notification?** **(Andhra Pradesh Authority of Advance Ruling)**	**AAR No. 15 /AP/ GST/2021 dated: 21.06.2021**	**Facts of the Case:** M/s. Saddles International Automotive & Aviation Interiors Private Limited are mainly engaged in the business of production and manufacture of car seat covers, and other allied accessories necessary for seats. They sell the manufactured seat covers to Car seat makers who affix the seat covers into the seats and thereafter the seat is affixed to the motor vehicle. The applicant approached the Authority for Advance Ruling on the classification issue of the specific product i.e., 'car seat covers' which is manufactured by the applicant. The applicant submitted that they had so far classified 'seat covers' under the HSN 8708 at Serial No.170 under Schedule IV of Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 with the applicable rate of CGST+SGST (14% + 14%) amounting to 28%.

			The applicant approached this authority seeking clarification regarding the competing entry at Serial No.211 of Notification ll2077 - CentralTax (Rate) dt:28.06.2017 under HSN 9401-Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof chargeable to GST at 28% upto L3.tL.2077. However, the tax rate of said entry underwent a change vide Notification No.47/2077 -Central Tax (Rate) dated 14.11.2017 reducing the tax rate to 18 %. The applicant claims that as the tax has been paid so far under HSN 8708, the benefit of reduction in rate of CGST/SGST will be applicable to the applicant if the correct classification is adopted. **Views of Andhra Pradesh Authority of Advance Ruling**: The bench comprising Members Mr. D Ramesh and Mr. Syam Sunder was considering an application filed by M/s. Saddles International Automotive & Aviation Interiors Private Limited is mainly engaged in the business of production and manufacture of car seat covers, and other allied accessories necessary for seats. They sell the manufactured seat covers to Car seat makers who affix the seat covers into the seats and thereafter the seat is affixed to the motor vehicle. It was further pointed out that the trade circles consider automotive accessories as a category of articles relating to non-essential automotive parts which embellish the look and feel of an automobile or add functionality. "'seat covers' provide a new look to the interior of the car, and also make it more comfortable for passengers. It is pertinent to mention in this context that seat covers were covered under 'accessories' in the pre-GST regime too. car seat covers were classified under heading 87 08 as accessories," the bench said. **Conclusion:** The Authority for Advance Rulings (AAR), Andhra Pradesh bench has held that the car seat covers would attract a higher tax rate of 28% GST.

M/s. Kanayalal Pahilajrai Balwani (Siddharth Foods)	**Whether or not there is requirement for reversal of input tax credit on goods used as raw material in manufacturing of expired cakes & pastries that were kept in display for use in course or furtherance of business.** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/16/2021 dated 30.06.2021**	**Facts of the Case:** The applicant, M/s. Kanayalal Pahilajrai Balwani has been engaged in the business of manufacturing & distributing cakes & pastries items. The applicant sends cakes & pastries to the distributors to keep them on display to fascinate consumers. The cakes & pastries are of perishable nature and cannot be preserved for a longer period and on regular intervals, all cakes & pastries kept in the display have to be compulsorily replaced after the expiry of said bakery item. The applicant submits that display assists them to achieve the objectives of continuing to conduct the business of manufacturing and selling cakes & pastries in future also. The applicant has sought the advance ruling on the issue Whether or not there is requirement for reversal of input tax credit on goods used as raw material in manufacturing of expired cakes & pastries that were kept in display for use in course or furtherance of business. **Views of Gujrata Authority of Advance Ruling**: The Coram of Sanjay Saxena and Arun Richard ruled that the manufacturers of perished or expired cakes should reverse any ITC that they may have availed on the inputs or ingredients used in the manufacturing of such cakes. The AAR has given the ruling in the light of the provision of circular dated October 26, 2018, which prescribed "where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/ she is required to reverse the ITC attributable to the manufacture of such goods."

			"We hold the act of throwing away expired cakes and pastries is akin to destroying the expired food products, for the applicant destroys by throwing them away," the AAR said while holding this scenario is similar to treatment of expiry drugs. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) is not allowable on expired cakes & pastries and needs to be reversed.

| **Vadilal Industries Ltd** | **18% GST is applicable on Ready-to-Cook Parathas**

(Gujarat Authority of Advance Ruling) | **GUJ/ GAAR/R/20/2021 dated 30.06.2021** | **Facts of the Case:**

M/s. Vadilal Industries ltd submitted that they are producing Paratha, which is a flat and thick piece of unleavened bread eaten like a Roti or Chapati; that various varieties of Paratha are produced and sold by them but the principal ingredient in all the varieties of Paratha is whole wheat flour.

The applicant has sought the advance ruling on the issue in respect of classification of any goods or services or both and applicability of a notification issued under the provisions of the CGST Act.

The applicant contended that rotis are subject to GST at 5% under HSN code 1905 the same should also apply to parathas. The applicant said, "Chapattis, Rotis (fulkas) and parathas share a close resemblance to one another, as not only the method of preparation or cooking but even the manner of use and consumption are same and similar for all such products."

Views of Gujrata Authority of Advance Ruling:

The AAR noted that the 'parathas' supplied by the applicant are not 'ready to eat food preparations' OR 'products ready for consumption, but are products on which 'cooking process' needs to be carried out as per the cooking instructions given on the 'packing covers' in order to make them 'ready for consumption.

The Coram of Sanjay Saxena and Arun Richard said that the applicant's product is not akin to Khakra and plain chapati or roti as they do not require any processing before consumption by humans and hence are ready to eat food preparations. |

			The AAR added that Parathas are required to be heated on a pre-heated pan or a griddle as per the cooking instructions printed on the packing covers of these products in order to make them ready for consumption. Therefore, we hold that the applicant's contention is not tenable and their product cannot be classified under CTH 1905 of CTA 1975. The AAR ruled that 'Paratha' merits classification at HSN 21069099 and attracts 18% GST. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that 18% GST is payable on Ready-to-cook parathas. The applicant,
Global Gruh Udyog	**What will be the classification of the goods intended to be produced such as Puripapad and Unfried papad?** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/21/2021 dated 08.07.2021**	**Facts of the Case:** The applicant, M/s. Global Gruh Udyog submitted that they are planning to manufacture: PuriPapad and unfried papad (not served for consumption) such as Jeera papad, Red Chili papad, Green chilli papad, Rice papad, Pauapapad, Udadpapad, Mung papad and Black pepper papad, all produced by using the same machinery. The applicant has further submitted that on the basis of production process, raw material used, HSN analysis, trade parlance etc., they contend that their product Papad is an Indian food prepared mainly with the ingredients like flour, spices, salt, oil etc. This product is unfried and it is not a cooked food. Further it is not an instant food eatable for human consumption. Consumers need to fry or roast the product to make it ready for consumption. As per rules of interpretation for classification of goods under HSN, specific heading will prevail over general heading. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.

			The applicant has sought the advance ruling in respect of the classification of the goods intended to be produced such as Puripapad and Unfried papad. **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard while ruling that the Goods are classified at HSN 19059040 ruled that due to advancement of technology, papad does not limit to the same age old traditional round shaped papad but can be in any desired shape and size. In the old era, usually 'papad' was manufactured manually, therefore it was easy for them to manufacture the Round Shape papad. In the modern era, by the advent of technology, the product is being manufactured by machines and dies of different shapes and sizes are used in the machine. Therefore, with the help of dies of various sizes and shapes, it is convenient to manufacture different shapes and sizes of papad. Further, at entry No. 96 of Notification No. 02/2017-CT (Rate) dated June 28, 17, the description goods is Papad, by whatever name it is known, except when served for consumption. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that 5% GST payable on Puri papad and Unfried papad.

Dishman Carbogen Amcis Ltd.	**Whether it is required by the applicant to charge GST on the amount collected from the employees towards canteen charges?** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/22/2021 dated 09.07.2021**	**Facts of the Case:** The applicant, M/s. Dishman Carbogen Amcis Ltd., has sought Ruling on whether it is required by the applicant to charge GST on the amount collected from the employees towards canteen charges. The applicant submitted as follows: i. Company is providing canteen facility to their employee as it is mandatory as per Section 46 of the Factories Act, 1948. This facility provided to employee without making any profit and working as mediator between employee and contractor of canteen service provider. They are collecting amount from the employee and paid to the contractor of canteen. ii. With reference to the Gujarat Appellate Authority Advance Ruling (Appeal) No. GUJ/ GAAAR/APPEAL/2021/07 dated 08.03.2021, Tax is not applicable on the collection of employee portion of amount towards food stuff supplied by the third party/canteen service provider. iii. Service in relation to supply of food and beverages by a canteen maintained in a factory covered under the factories Act, 1948 was exempted under the Service Tax as per Sr. No. 19 of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012. iv. They are of the opinion that this activity does not fall within the scope of supply as the same is not in the course or furtherance of its business. They are facilitating the supply of food to the employees which is statutory requirement and is recovering only employees share as actual expenditure incurred in a connection with the food supply without making any profit.

			v. The canteen service provider charging GST on supply of food and same is not entitled to avail as ITC as it has been restricted by virtue of Section 17(5) of CGST Act, 2017. In such case canteen service provided by company should not be construed as "service" and no GST shall be payable. **Views of Gujrata Authority of Advance Ruling**: Shri Vinod Bohra, Manager (Indirect Taxation) appeared for the hearing and reiterated the contents of the application. The applicant vide letter dated 30-6-21 has submitted as follows: 1. They are having two manufacturing facility at Bavla and Naroda in AhmedabadGujarat and have more than 250 employees at both manufacturing location. Therefore, in terms of Factories Act, 1948, it is mandatory for the company to provide canteen facilities to the employee. 2. They have contract with canteen contractor and agreed to pay him the fix per plate amount as per agreement. As per company policy, applicant provide the food facility to their employees and recovered of nominal amount from the employee and the said recovered amount is paid to canteen contractor. For more clarity they have given the following illustration. Illustration: The company (Dishman) and canteen contractor (XYZ) have agreed to provide a dish @ 60/- per plate and the contractor charges the GST on such supply. The company pays Rs.40/- directly to contractor and Rs.20 recovered from employees and pay to the contractor. The company has not availed GST credit on such supply.

			Conclusion: We have carefully considered all the submissions made by the applicant. We find that the applicant has arranged a canteen for its employees, which is run by a third party Canteen Service Provider. As per their arrangement, part of the Canteen charges is borne by the applicant whereas the remaining part is borne by its employees. The said employees' portion canteen charges are collected by the applicant and paid to the Canteen Service Provider. The applicant submitted that it does not retain with itself any profit margin in this activity of collecting employees' portion of canteen charges. This activity carried out by applicant is without consideration. Thus, we pass the Ruling: GST, at the hands on the applicant, is not leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider.
Tirupati Construction	**GST payable on Development & Construction of Sports Complex for Ahmedabad Urban Development Authority** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/24/2021 dated 09.07.2021**	**Facts of the Case:** The applicant, M/s. Tirupati Construction has submitted that the activity of "construction of sports complex" is a supply of service within the meaning of Section 7(1)(a) of the CGST Act, 2017 read with Section 2(102) of the said Act. The said supply of service is an intra state supply within the meaning of Section 8(2) of the IGST Act, 2017 and is chargeable CGST under Section 9 of CGST Act, 2017 and SGST under Section 9 of CGST Act, 2017. The applicant has sought the advance ruling on the issue of the activity of composite supply of work contract service by way of development and construction of sports complex at Maninagar, Ahmedabad for the Ahmedabad Urban Development Authority, and as detailed in the tender document merit classification at Sr. No. 3(vi)(a) of Notification No. 11/2017-CT (Rate) dated 28.06.2017.

			Views of Gujrata Authority of Advance Ruling: The Coram of Members Sanjay Saxena and Arun Richard observed that the commercial uses of an already existing Sports complex at Bopal location as detailed in previous pages. We note the chargeable bookings and their rates, the non-refundable nature of bookings too. With the plain reading of the inclusive definition of the word 'business' in CGST Act with the nature of commercial activities in which AUDA is involved as evidenced with the above illustration, with nothing to dissuade us from what is a glaring and clear illustration of activity of AUDA w.r.t. a sports facility already existing. "We note that the explanation to said entry of the Notification wherein the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities and does not cover Government Authority. We cannot allow any scope for intent. The subject Supply does not merit to be entertained at subject Serial Number 3(vi)(a) of said NT (as amended from time to time)," the AAR said. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that GST payable on development & construction of sports complex for Ahmedabad Urban Development Authority (AUDA).

Adarsh Plant Protected Ltd	**Seed dressing, coating and treating drum" machine is classified at HSN 84368090 tariff item and liable to GST at 12% [6% CGST+6% SGST].** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/25/2021 dated 09.07.2021**	**Facts of the Case:** The applicant, M/s. Adarsh Plant Protected Ltd., has applied for Advance Ruling for determining the HSN and applicable tax on 'Agricultural manually hand operated Seed dressing, Coating and Treating drum', submitting that these machines are used by the farmer and are manually operated. It is submitted that the subject machine is used in agriculture to cover, coat and treat chemicals on seeds before sowing and it falls under HSN 8201 and attracts a Nil rate of GST. It was submitted that other manufacturers of this kind of machines are charging 5% GST under HS code 84371000. **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard observed that "Seed dressing, coating and treating drum" machine is classified at HSN 84368090 tariff item and liable to GST at 12%. The AAR noted that Chapter 82 01 to 8205 includes tools which, apart from certain specified exceptions (e.g. blades for machine saw), are used in the hand. As per HSN they are hand tools which can be used independently in hand. As per HSN notes, these tools almost always have a spring which forces the shafts apart from cutting, and a hook or other fastening so that they can be easily opened or closed with one hand. In cutting they are manipulated with one hand, and they have a very powerful action.

			The applicant product is not a hand tool rather it is a machine used for seed dressing, coating and treating the seed with chemicals. There is no merit to classify subject goods at HSN 8201. “As per HSN Notes [Page No. XVI-8436-1], the other agricultural machinery includes seed dusting machines usually consisting of one or more hoppers feeding a revolving drum in which the seeds are coated with insecticidal or fungicidal powders. We find that this Chapter Heading is more appropriate for classifying the subject goods as the function of subject goods is also similar wherein the said agricultural machinery has a drum in which seeds are coated and treated with chemicals before sowing. The said Chapter heading makes no different treatment between manual and power driven machines. On examination of HSN 8436, the subheading 843680 covers: ‘other machinery’ and tariff item 84368090 covers ‘other’. We hold that the description of subject goods fit into this Chapter Heading 8436, precisely subheading 843680 and further precisely at Tariff item 84368090,” the AAR noted. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that 12% GST payable on Seed dressing, coating and treating drum machine.

Hilti Manufacturing India Pvt. Ltd.	**GST applicable on Research and Development Services on Goods Physically made available by Foreign Entities** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/26/2021 dated 09.07.2021**	**Facts of the Case:** The applicant, M/s.Hilti Manufacturing India Pvt.Ltd. has submitted that they have been granted approval from Development Commissioner (KASEZ) to operate as an 100% Export Oriented Unit (EOU) vide permission. They have been granted permission as per LUT as an 100% EOU to manufacture products such as Easicut diamond impregnated segments, Easicut diamond segmented saw, Continuous type saw, Turbo Type saw, Diamond core bit drills, Aluminium Flange for diamond wheels, Copper washers and blister moulds. They have been granted license for private bonded warehouses under 100% EOU Scheme bearing License No.2/93 with the additional premises Unit-1 and Unit-3 being included in the said license vide amendment to the license and the license has been renewed from time to time. The applicant has been granted approval from the Development Commissioner (KASEZ) to operate as an 100% EOU. They have been granted permission as per LUT as an 100% EOU to manufacture products such as Easicut diamond impregnated segments, Easicut diamond segmented saw, Continuous type saw, Turbo Type saw, Diamond core bit drills, Aluminium Flange for diamond wheels, Copper washers and blister moulds. They have been granted license for private bonded warehouses under 100% EOU Scheme bearing License No.2/93 with the additional premises Unit-1 and Unit-3 being included in the said license vide amendment to the license and the license has been renewed from time to time.

			The applicant has sought the advance ruling on the issue (i) Whether the services provided by the applicant to the entities located outside India is covered under Section 13(2) of the Integrated Goods and Services Tax Act, 2017? (ii) Whether the services provided by the applicant is liable to Central Goods and Service Tax and State Goods and Service Tax or Integrated Goods and Services Tax or is it eligible to be treated as a 'zero rated supply' under Section 16 of the Integrated Goods and Services Tax Act, 2017? **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard held that the Service contract between the applicant and service receiver, applicant's submissions, even those during the personal hearing, we find that goods were sent by Hilti Aktiengesellschaft (hereinafter referred to as recipient) to the applicant which are required to be made physically available to the applicant, so that applicant conducts various tests and RD activities on the said goods and prepare the results and supply the subject service to the recipient. We find this situation is covered at Section 13(3)(a) of IGST Act. Thus, as per said section 13(3)(a) of IGST Act, the place of supply of the following services shall be the location where the services are actually performed, i.e. location of the applicant. As the services provided by the applicant are in the form of R&D activity undertaken on the sample goods provided by the recipient i.e. the sample goods have to be made physically available by the recipient to the applicant in order to enable the applicant to provide the services. Therefore, the place of supply of service in the present case will be the location where the services are actually performed. The place of supply of services is therefore, Gujarat.

			Conclusion: The Gujarat Authority of Advance Ruling (AAR) ruled that the IGST applicable on Research and Development Services on goods physically made available by foreign entities.
Ahmedabad Janmarg Limited.	**Ahmedabad Janmarg liable to pay GST on Security Services under RCM** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/27/2021 dated 19.07.2021**	**Facts of the Case:** The applicant, M/s. Ahmedabad Janmarg Limited (AJL) has submitted that Ahmedabad Municipal Corporation (AMC) is 100% shareholder of AJL i.e. AJL is nothing but a mere offshoot of AMC and for all practical purposes, AJL is an inseparable part of AMC; that the applicant is an extended arm of the Municipal Corporation and does the activities as per the functions entrusted to Municipal Corporation. The applicant has stated that the majority of the employees that work for AJL are sent on deputation by AMC; that the Deputy/Assistant Municipal Commissioner of AMC is in charge of the operation of AJL and in case he/she is posted to a different department of AMC, another Assistant Municipal Commissioner of AMC is given charge of the operations of AJL; that similarly, other AMC officers such as city engineers are deputed to AJL to carry out day to day activities; that since AJL is part of centrally funded scheme, various stakeholders are involved and the details of the key stakeholders are given; that the lead planning & implementing agency for all the practical purpose is AMC. The applicant has sought the advance ruling on the issue of 1. Whether AJL would be qualified as 'Local Authority' under the Central Goods and Services Tax Act, 2017?

			2. Whether AJL is liable to pay GST on procurement of security services received from any person other than body corporate under reverse charge mechanism, considering the exemption granted in sl. no. 3 of Notification No. 12/2017 – Central Tax (Rate) or sl. no. 3 of Notification No.09/2017 – IGST (Rate)? 3. Whether AJL is required to pay GST on advertisement services or the service recipient of AJL is required pay GST under reverse charge mechanism considering Notification no. 13/2017-Central tax (Rate) dated 28-06-2017? 4. Whether AJL is required to be registered as a Deductor under GST as per the provision of Section 24 of the CGST Act? 5. If AJL does not qualify to be local authority under Central Goods and Services Tax Act, 2017 in Part A, can be it construed to be a government entity or a governmental authority? **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard ruled that Ahmedabad Janmarg Ltd. is not a Local Authority and it is not required to be registered as a Deductor under GST. "Ahmedabad Janmarg Ltd is liable to pay GST on security services under RCM, as per relevant Notification," the AAR added. The AAR observed that Ahmedabad Janmarg Ltd is not a Government Entity/ Governmental Authority. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that the Ahmedabad Janmarg liable to pay GST on security services under Reverse Charge Mechanism (RCM).

Ramdev Food Products Pvt.Ltd.	**18% GST applicable on Mixed Supply of Instant Mix Flour of Gota or Methi Gota with Chutney powder or Kadi Chutney Powder.** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/29/2021 dated 19.07.2021**	**Facts of the Case:** The applicant, M/s. Ramdev Food Products Pvt. ltd., supplies varieties of instant mix flour under the brand name of Ramdev. The applicant has submitted the method of making instant mix flours wherein it is stated that The applicant purchases food grains/ pulses such as wheat, rice, chana dal, udad dal, etc from vendors. The food grains/pulses are fumigated and cleaned for the removal of wastage. The food grains/pulses are then grinded and converted into flour. The flour is sieved for the removal of impurities. The flour is then mixed with other ancillary ingredients such as salt, spices, etc. The proportion of flour in most of instant mixes is ranging from 70% to 90%. The flour mix is then subjected to quality inspection and testing. The flour mix is thereafter packaged and stored for dispatch. The applicant has sought the advance ruling on the issue (a) What is the applicable rate of tax under the GST Acts on supply of instant mix flours for gota, khaman, dalwada, dahiwada, idli, dhokla, dhosa, pizza, methi gota and handvo? (b) What is the applicable rate of tax under the GST Acts on supply of instant mix flour for gota/ methi gota along with chutney powder/kadhi chutney powder? (c) What is the applicable rate of tax under the GST Acts on supply of khaman along with masala pack?

			Views of Gujrata Authority of Advance Ruling: The Coram of Members Sanjay Saxena and Arun Richard held that the subject 10 goods merit classification at HSN. 2106 90 attracting 18% GST. "The mixed supply of Instant mix flour of Gota/ Methi Gota with Chutney powder/ Kadi Chutney powder shall be treated as supply of Instant Gota Mix Flour/Instant Methi Gota Mix Flour respectively (falling under HSN 2106 90) on which the GST liability will be 18%(9% CGST + 9% SGST)," the AAR added. The AAR observed that the mixed supply of Instant mix flour of Khaman and masala pack shall be treated as supply of Instant Mix Flour of Khaman (falling under HSN 2106 90) on which the GST liability will be 18%. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that 18% GST payable on the mixed supply of Instant mix flour of Gota or Methi Gota with Chutney powder or Kadi Chutney powder.
Kitchen Express Overseas Ltd.	**18% GST payable on Gota Flour, Khaman Flour, Dalwada Flour, Dahiwada Flour, Dhokla Flour, Idli Flour, Dosa Flour** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/32/2021 dated 30.07.2021**	**Facts of the Case:** The applicant, M/s Kitchen Express Overseas Ltd. is a supplier of Pulses, Flours, Namkeen, Mix Flours, and other food products including Khaman Flour, Gota Flour, Dalwada Flour, Dahiwada Flour, Dhokla Flour, Idli Flour, and Dosa Flour, supplied in a unit container under the registered brand name of 'KITCHEN XPRESS'. These flours are in the form of an instant mix of flour of grains, which is then used to prepare instant farsan and other similar dishes by following the directions of the recipe after adding such other ingredients as required.

			The applicant has sought the advance ruling on the issue under which Chapter, Tariff Heading and HSN, the different varieties of Flours i.e. Gota Flour, Khaman Flour, Dalwada Flour, Dahiwada Flour, Dhokla Flour, Idli Flour, and Dosa Flour manufactured and supplied by applicants will attract CGST or SGST. **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard held that The products i.e. Gota Flour ii. Khaman Flour iii. Dalwada Flour iv. Dahiwada Flour v. Dhokla Flour vi. Idli Flour and vii. Dosa Flour is classifiable under HSN. 2106 90 (Others) attracting 18% GST (9% CGST and 9% SGST) as per Sl. No. 23 of Schedule-III to the Notification No.01/2017- Central Tax (Rate) dated June 28, 2017. "Thus, 'Food preparations not elsewhere specified or included' falling under Chapter Heading 2106 are covered under the aforesaid Entry at Sr. No. 23 of Schedule- III of Notification No. 1/2017-Central Tax, as amended, attracting Goods and Services Tax @ 18% (CGST 9% + SGST 9%), though some of the specific products of Chapter Heading 2106 excluded from this entry are covered under different entries of Schedule-I or Schedule-II, attracting Goods and Services Tax @ 5% or 12%. None of the aforesaid 7 products of various Instant Mix / Ready Mix Flour being supplied by the applicant are the products which have been excluded from the entry at aforesaid Sr. No. 23 of Schedule – III or which have been specifically included in any other entry of other Schedule of Notification No. 1/2017-Central Tax, as amended or in any of the entries of Notification No. 2/2017-Central Tax," the AAR said. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that 18% GST payable on Gota Flour, Khaman Flour, Dalwada Flour, Dahiwada Flour, Dhokla Flour, Idli Flour, and Dosa Flour.

Wago private limited	ITC not admissible on Air-Conditioning, Cooling System, Ventilation System, as this is blocked Credit (Gujarat Authority of Advance Ruling)	GUJ/ GAAR/R/33/2021 dated 30.07.2021	**Facts of the Case:** The applicant, M/s. Wago Private Limited is in the process of establishing their new factory at Vadodara, Gujarat and are procuring various assets to install and commission them in their factory and therefore, the applicant sought Ruling on the admissibility of input tax credit on the same in terms of the provisions of Section 16 and 17 of the CGST Act, 2017. The applicant has sought the advance ruling on admissibility of input tax credit of GST paid on the procurement of the above including the service of installation and commissioning of the same, in terms of the provisions of Section 16 and 17 of the CGST Act, 2017. **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard held that the 'Ventilation system fitted in the building cannot be taken as such to the market for sale and cannot be shifted from one place to another as such to erect at another site. It can be shifted only after dismantling the said system which cannot be called 'Ventilation system after it is. The 'Ventilation system' once installed and commissioned in the building is transferred to the building owner and this involves the element of transfer of property, thereby 'Ventilation system supply merits to be classified as work contract supply as the system per se is an immovable property.

			“We find that the work order awarded to Skai Air Control pvt. ltd. is for HVAC works and this covers the ‘Ventilation system’ too. However, since the applicant has raised the ‘Ventilation system’ separately, the same is taken up for discussion. The ventilation system comprises of fresh air fans, exhaust fans, electrical panel, GI ducting, threaded rod with PU coating, beam clamp, piping support for copper pipe and drain pipe, drain pipe U clamp, brid screen and cowls, grill, MS structure, regulators, suitable PU coated GI perforated cable trays with cover with necessary structural supports, Anchor Fastener, insulated PVC pipe, SITC of sheet metal ducts (factory fabricated ducts) with accessories like veins, flanges, guide vens as per technical specification, flexible duct for equivalent connecting fresh air ducting and cassette ac indoor units fresh air connection, fabrication and erecting structure steel for support etc. All the different parts of ‘Ventilation system’ after being fitted in the building lose their identity as individual goods and become “Ventilation system”,” the AAR noted. “Input tax credit is not admissible on Air-conditioning and Cooling System and Ventilation System, as this is blocked credit falling under Section 17(5)(c) CGST Act,” the AAR ruled. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that ITC not admissible on Air-conditioning, Cooling System, Ventilation System, as this is blocked credit.

Greenbrilliance Renewable Energy LLP	Subsidy amount to be reduced for arriving at Taxable Value of Solar system, GST Liability shall be on Taxable Value (Gujarat Authority of Advance Ruling)	GUJ/ GAAR/R/34/2021 dated 30.07.2021	**Facts of the Case:** The applicant, M/s. Greenbrilliance Renewable Energy LLP, supplies solar photovoltaic panels and Solar EPC services. The applicant is empanelled as channel partner to execute the solar rooftop system in Gujarat under the Surya Gujarat Yojna 2019-20 and 2020-21. The applicant has sought the advance ruling on the issue 1. Whether subsidy should be reduced for arriving at Ex-factory value in order to collect the GST on goods supplied to the customer under the rooftop solar project? 2. If yes than whether we should claim refund for the excess amount of GST paid by us to the department? 3. If no then whether direction to this effect should be given to all other supplier for collection of GST on subsidy amount? **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard held that the taxable Value on Tax invoice issued to the Customer shall be arrived after deducting the subject Subsidy from 'System Cost' and GST liability is on the Taxable Value. "There shall be no implication of Section 17(2) CGST Act, if taxable value is arrived after subtracting the subsidy amount from the system price," the AAR ruled. "The applicant has collected Subsidy from the Government in this regard and this subsidy amount is inclusive of GST, as detailed in aforementioned paragraphs, the applicant is required by law to pay to the Government the said amount in the subsidy representing GST, irrespective of the position of law that subsidy portion is to be deducted from the value of supply charged to the customer, for arriving at the taxable value," the AAR noted.

			Conclusion: The Gujarat Authority of Advance Ruling (AAR) ruled that the Subsidy amount to be reduced for arriving at the taxable value of the solar system, GST liability shall be on taxable value.
The Varachha Co Op Bank Ltd.	**ITC admissible on New Locker Cabinet and Generator** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/37/2021 dated 30.07.2021**	**Facts of the Case:** The applicant, M/s. Varachha Co-operative Bank Ltd. submitted that they are constructing New Administrative Building and incurring cost of various services namely Central Air Conditioning Plant, New Locker Cabinet, Lift, Electrical fittings, such as Cables, Switches, NCB and other Electrical Consumables Materials, Roof Solar, Generator, Fire Safety Extinguishers, Architect Service Fees, Interior Designing Fees. The applicant has submitted as follows: Section 17 (5) of CGST Act, 2017 deals with "Blocked Credit" in GST. Sub-Section (c) & (d) of Section 17 (5) deal with blocked credit relating to "Works Contract Services" and "Goods & Service" received for construction of Immovable Property respectively. For understanding the Blocked credit for construction of Immovable Property in GST a Conjoint reading of Section 17 (5) (c) & 17 (5) (d) is required. The meaning of "Works Contract" and basics of Section 17 (5) (c) & (d) are reproduced as follows. As per Section 2(119) of GST Act, "Work 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.

			The applicant has sought the advance ruling on the issue Whether the Applicant, having undertaken the Construction of their New Administrative Office, will be eligible for the ITC of following: (i) Central Air Conditioning Plant (Classified & Grouped under "Plant & Machinery") (ii) New Locker Cabinet (Classified & Grouped under "Locker Cabinets") (iii) Lift (Classified & Grouped under "Plant & Machinery") (iv) Electrical Fittings, such as Cables, Switches, NCB and other Electrical Consumables Materials (Classified & Grouped under Separate Block namely "Electrical Fittings") (v) Roof Solar (Classified & Grouped under "Plant & Machinery") (vi) Generator (Classified & Grouped under "Plant & Machinery") (vii) Fire Safety Extinguishers (Classified & Grouped under "Plant & Machinery") (viii) Architect Service Fees (Charged to Profit & Loss Account) (ix) Interior Designing Fees (Charged to Profit & Loss Account). **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Sanjay Saxena and Arun Richard held that Input Tax Credit is admissible on New Locker Cabinet and Generator. Input Tax Credit is blocked under Section 17(5)(c) CGST Act for Central Air Conditioning Plant; Lift; Electrical Fittings; Fire Safety Extinguishers, Roof Solar Plant. Input Tax Credit is blocked under Section 17 (5) (d) CGST Act for Architect Service and Interior Decorator fees.

			Conclusion: The Gujarat Authority of Advance Ruling (AAR) ruled that the Input Tax Credit (ITC) is admissible on New Locker Cabinet and Generator.
Romano Drugs Pvt. Ltd.	**What is rate of tax applicable to the Services by way of job work on Diphenylmethoxy'N' N- diethylaminethanol HCI (Job work of pharmaceutical Drugs) , undertaken by the supplier (applicant) as per CBIC issued clarification on Job work vide circular No.126/45/2019- GST dated 22.11.2019 i.e., whether the GST rate 18% or 12% is to be charged by the supplier?** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/38/2021 dated 30.07.2021**	**Facts of the Case:** The applicant, M/s. Romano Drugs Pvt. Ltd. submitted that Section 2(68) of the CGST Act, 2017 defines job work as 'any treatment or process undertaken by a person on goods belonging to another registered person". The job worker is required to carry out the process specified by the principal on the goods owned by him. Sl. No. 26 of the Notification No. 11/2017-CT (Rate) dated 2-6-2017 defines the GST rates to be charged on manufacturing services on physical inputs (goods) owned by others. That the Notification No.11/2017 dated 28-06- 2017 was amended vide Notification No.20/2019 dated 30.09.2019, and the following entry was inserted at serial number-26 namely "(id) Services by way of job work other than (i), (ia), (ib) and (ic) above", which is chargeable to CGST at the rate of 6% and (iv) Manufacturing service on physical inputs (goods) owned by others other than specifically specified, is chargeable to CGST at the rate of 9%. The applicant has submitted that as per the CBIC Circular, if any service provided by way of treatment or processing undertaken by a person on goods belonging to another registered person will be considered under the Job work service and is liable at the rate of 12% GST. The applicant sought the advance ruling in respect of rate of tax applicable to the Services by way of job work on Diphenylmethoxy 'N' N-diethylaminethanol HCI (Job work of pharmaceutical Drugs), undertaken by the supplier (applicant) as per CBIC issued clarification on Job work vide circular No.126/45/2019- GST dated 22.11.2019 i.e., whether the GST rate 18% or 12% is to be charged by the supplier.

			Views of Gujrata Authority of Advance Ruling: The Coram of Sanjay Saxena and Arun Richard ruled 12% GST is payable on Services by way of job work on Diphenylmethoxy 'N' N-diethylaminethanol HCI (Job work of pharmaceutical Drugs). **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that the Services by way of job work on pharmaceutical Drugs attracts 12% Goods and Service Tax (GST).
Tata Motors Ltd.	**No GST leviable on Amount representing Employees portion of Canteen Charges** **(Gujarat Authority of Advance Ruling)**	**GUJ/ GAAR/R/39/2021 dated 30.07.2021**	**Facts of the Case:** The Applicant, M/s Tata Motors Ltd. is recovering nominal amount on monthly basis to ensure the use of canteen facility only by authorized persons/employees and expenditure incurred towards canteen facility borne by Applicant is part and parcel of cost to the company. In a press release dated 10.07.2017 also, it was clarified that supply by the employer to an employee in terms of contractual agreement of employment (part of salary/CTC) is not subject to GST. Once an employee ceases to be in employment with Applicant, he/ she is not authorized to use the canteen facility. In other words, the employer-employee relationship is a must to avail this facility. The applicant has submitted that they are not in the business of providing canteen service and hence recovery of nominal amount will not fall in the definition of supply at all. A similar view is also upheld by Maharashtra AAR in the case of Jotun India (P) Ltd- 2019-TIOL-312-AAR-GST. The applicant submitted that they deducted a nominal amount from the employee's salary for availing canteen facility. In other words, the difference between the amount paid to the service provider and the amount recovered from employees is the cost to the company as salary cost.

			The applicant has sought the advance ruling on the issue 1. ITC on GST paid on canteen facility is blocked credit under Section 17 (5)(b)(i) of CGST Act and inadmissible to applicant. 2. GST, at the hands on the applicant, is not leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider. **Views of Gujrata Authority of Advance Ruling**: The Coram of Members Arun Saxena and Arun Richard ruled that ITC on GST paid on canteen facility is blocked credit under Section 17 (5)(b)(i) of CGST Act and inadmissible to the applicant. "GST, at the hands of the applicant, is not leviable on the amount representing the employee's portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider," the AAR said. **Conclusion:** The Gujarat Authority of Advance Ruling (AAR) ruled that no GST is levied on the amount representing employees' portion of canteen charges.

B.G. Elevators and Escalators Private Limited	**M/s BG Elevators and Escalators Private Limited is trading as well as erection and commissioning of lifts and elevators for domestic as well as commercial use.** **(Karnataka Authority of Advance Ruling)**	**Advance Ruling No. KAR ADRG 11/2021** **09/03/2021.**	**Facts of the Case:** The applicant, M/s BG Elevators and Escalators Private Limited is a registered private limited company engaged in trading as well as erection and commissioning of lifts and elevators for domestic as well as commercial use. The applicant has sought advance ruling in respect of i) What is the Rate of tax required in respect of erecting and commissioning of lifts installed for domestic use. ii) What is the Rate of tax required in respect of erecting and commissioning of escalators installed for domestic use. The applicant submits that they learnt that their competitors are charging GST at the rate of 12% on the erection and commissioning of lifts on immovable property for domestic use and hence filed the instant application. **Views of Karnataka Authority of Advance Ruling**: The Coram of Dr. M.P.Ravi Prasad and Mashood Ur Farooqui clarified that Notification 11/2017-Central Tax (Rate) dated June 28, 2017, as amended, stipulates the rate of GST on the services covered under 995466 at 18%, in terms of Sl. No.3(xii). Further the said GST rate is irrespective of the place of installation i.e. at the residence or at the mall or shopping complex and also irrespective of the intended usage of the lifts/escalators either for domestic use or commercial use. "The rate of GST applicable to erection and commissioning of lifts/ escalators installed for domestic use is 18%, as the said services are covered under Lift and escalator installation services, falling under SAC 995466, in terms of Sl.No. 3(xii) of the Notification No. 11/2017 (Central Tax Rate) dated 28-06-2017, as amended," the AAR ruled.

			Conclusion: The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST is applicable on erection and commissioning of lifts or escalators for domestic use.
Olety Landmark Apartment Owner's Association	**Olety Landmark Apartment Owner's Association is a non-profit making residents welfare Association** **(Karnataka Authority of Advance Ruling)**	**Advance Ruling No. KAR ADRG 12/2021** **Dated 10.03.2021**	**Facts of the Case:** The applicant, M/s Olety Landmark Apartment Owner's Association is a non-profit making residents welfare Association formed by the individual apartment/flat owners for the purpose of maintaining and managing the common areas and facilities in the condominium and the Applicant is duly registered under the provisions of the Karnataka Apartment Ownership Act, 1972. The applicant is also registered under GST Act. The Applicant, having about 208 members, is engaged in providing maintenance and repairs of common areas such as the corridors, garden, play area, pathway, clubhouse, swimming pool, gymnasium, electric equipment etc., and payment of electricity and other outgoings by collecting monthly maintenance charges from its members based on the area of occupancy. The applicant also collects certain amounts towards sinking funds, in addition to regular maintenance amounts, to meet the expenditure of planned / unplanned outlay in future, under its bye-laws. The applicant sought advance ruling on the issue of whether the Applicant is liable to pay GST on amounts which it collects from its members for setting up the 'Sinking Fund'/ Corpus Fund.

			Views of Karnataka Authority of Advance Ruling The Coram of Mashood Ur Rehman Farooqui and Dr. Ravi Prasad ruled that The amounts collected by the applicant towards Sinking Fund amount to advances meant for the future supply of services to members, covered under SAC 9995 as "Services of Membership Association" and are taxable to GST at the rate of 18% in terms of Sl.No.33 of Notification No.11/2017-Central Tax (Rate) dated June 28, 2017, as amended, as the time of supply is receipt of the advance amounts in terms of Section 13(2)(a) of the CGST Act 2017. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST applicable on Sinking Fund collected by Residential Society from Members.
Karnataka State Ware-housing Corporation	**Whether 'supervisory charges' under clause 28(b) of the Office order on charges of KSWC charged to Food Corporation of India (FCI) by the Corporation towards supervision of loading, transportation and unloading of agricultural produce like Rice, wheat etc., at the rate of 8% on the amount billed by 'Handling and Transportation' Contractors is chargeable to tax under the CGST/ KSGST Acts, 2017, If yes, at what is the applicable rate of tax and the HSN/SAC Code applicable thereto?** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 14/2021 dated 24.03.2021**	**Facts of the Case:** The applicant, Karnataka State Warehousing Corporation submitted that they are a State Government Undertaking, establishment during 1957 and set up under the erstwhile Agricultural Produce (Development and Warehousing Corporations Act, 1956, later repealed by the Warehousing Corporation Act, 1962, having Central Warehousing Corporation and the Government of Karnataka as shareholders, in equal proportions. Further they also submitted that they are engaged in the various activities. 1. Firstly, to acquire and/or build godowns and/or warehouses within the State of Karnataka. 2. Secondly, to run Warehouses in the State of Karnataka for the storage of Agricultural Produce, seeds, manures, Fertilizers, Agriculture implements and other notified commodities

			3. Thirdly, to arrange facilities for handling and transport, loading and unloading of agricultural produce, seeds, manures, fertilizers etc., to and from various railheads to corporation's godowns; and supervise all these activities being carried out by handling & Transport contractors (H&T Contractors). 4. Fourthly, to arrange for disinfestation services on behalf of farmers, government offices, public libraries, etc. 5. Lastly, to lease/rent out space on per square feet or any other basis to other corporations/ agencies for storage of food grains, oil, fertilizers. Branded good, etc. The applicant has sought advance ruling on the issue whether 'supervisory charges under clause 28(b) of the Office order on charges of KSWC charged to Food Corporation of India (FCI) by the Corporation towards supervision of loading, transportation and unloading of agricultural produce like Rice, wheat etc., at the rate of 8% on the amount billed by Handling and Transportation Contractors is chargeable to tax under the CGST/ KSGST Acts, 2017, if yes, at what is the applicable rate of tax and the HSN/SAC code applicable.

			Views of Karnataka Authority of Advance Ruling: The Coram of Dr.M.P.Ravi Prasad and Mashood Ur rehman Farooqui ruled that the services of the applicant to supervise the handling & transportation "agriculture produce belonging to the FCI, from railhead to the warehousing station provided by the H&T contractors, are covered under SAC 9997 being the services nowhere else classified and are exigible to GST at the rate of 18% in terms of Sl. No.35 of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, on the value equivalent to 8% of the sum of actual amounts paid to H&T contractors, in terms of Section 15 of the CGST Act, 2017. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST exigible on supervising the handling and transportation agriculture produce belonging to the FCI.
SPSS South Asia Private Limited	**1) Does the supply of licenses for internet downloaded software fall within the ambit of Notification No. 47/2017-Integrated Tax (Rate) dated 14th November 2017.** **2) Does the supply of licenses for internet downloaded software fall within the ambit of Notification No. 45/2017-Central Tax (Rate) dated 14th November 2017?** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 15/2021 dated 24.03.2021**	**Facts of the Case:** The Applicant, SPSS South Asia Pvt. Ltd. is a Private Limited Company, registered under the Goods and Services Act, 2017 and is an authorized reseller for various IBM SPSS Software in India. The applicant is a pure trader in such software and does not develop / modify any software prior to selling it to a customer. The applicant has sought advance ruling in respect of 1) Does the supply of licenses for internet downloaded software fall within the ambit of Notification No.47/2017-Integrated Tax (Rate) dated 14th November 2017. 2) Does the supply of licenses for internet downloaded software fall within the ambit of Notification No.45/2017-Central Tax (Rate) dated 14th November 2017?

			Views of Karnataka Authority of Advance Ruling: The Coram of Dr.M.P.Ravi Prasad and Mashood Ur rehman Farooqui ruled that the Notification No.45/2017- Central Tax (Rate) dated 14.11.2017 and Notification No.47/2017-Integrated Tax (Rate) dated November 14, 2017 stipulates the rate of CGST / IGST at the rate of 5%, if the goods of computer software is supplied to public funded research institutions subject to fulfillment of the conditions prescribed under column 4 of the said notification. In the instant case the applicant is supplying computer software to National Institute of Science Education and Research, Bhubaneswar, a public funded research institution, under the administrative control of Department of Atomic Energy (DAE), Government of India. Further the said institute has also furnished a certificate as required to fulfill the required condition. Therefore, the AAR held that the Notification 45/2017-Central Tax (Rate), dated November 14, 2017 or Notification 47/2017- Integrated Tax (Rate), dated November 14, 2017 are applicable to the transaction or supply of the applicant. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that 5% GST is applicable on supply of computer software to a public funded research institution, under the administrative control of Department of Atomic Energy (DAE).

Bishops Weed Food Crafts Private Limited	**1) Whether leasing of property for use as residence along with basic amenities would qualify, as composite supply under Section 2(30) of the Karnataka Goods and Services Tax Act, 2017.** **2) Whether renting of property by Applicant is covered under entry 12 of the exemption Notification 12/2017 (Rate) dated June 28, 2017.** **3) If the answer to 2 is negative, whether services by the Applicant are covered under entry 14 of the exemption Notification 12/2017 (Rate) dated June 28, 2017** **4) Whether leasing of property for residential subletting would be covered under the exemption for residential dwelling via notification 12/2017 (Rate) dated June 28, 2017** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 16/2021 dated 24.03.2021**	**Facts of the Case:** The applicant, Bishops Weed Food Crafts Pvt. Ltd. is engaged in the business of provision of services by way of Leasing of residential units for use as residence to Tenants. The applicant has sought the advance ruling on the issue 1) Whether leasing of property for use as residence along with basic amenities would qualify, as composite supply under Section 2(30) of the Karnataka Goods and Services Tax Act, 2017. 2) Whether renting of property by Applicant is covered under entry 12 of the exemption Notification 12/2017 (Rate) dated June 28, 2017. 3) If the answer to 2 is negative, whether services by the Applicant are covered under entry 14 of the exemption Notification 12/2017 (Rate) dated June 28, 2017. 4) Whether leasing of property for residential subletting would be covered under the exemption for residential dwelling via notification 12/2017 (Rate) dated June 28, 2017. **Views of Karnataka Authority of Advance Ruling:** The Coram of Dr.M.P.Ravi Prasad and Mashood Ur rehman Farooqui ruled that Leasing of property for use as residence along with basic amenities", in the instant case, is covered under accommodation services, as ruled in the preceding paras, falls under SAC 996311 and hence would qualify as composite supply under Section 2(30) of the CGST/KGST Act, 2017.

			"Renting of property by Applicant is not covered under entry 12 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, as their services are covered under accommodation services falling under SAC 996311," the AAR said. The Authority held that the exemption under entry 14 of Notification 12/2017-Central Tax (Rate) dated June 28, 2017 is available to the transaction of the applicant. The AAR observed that leasing of property for residential subletting would not be covered under the exemption for residential dwelling under entry 12 Notification 12/2017-Central Tax (Rate) dated June 28, 2017, as the two are different and individual transactions. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that the leasing of property for use as residence along with basic amenities, covered under accommodation services under GST.
Arvind Envisol Limited	**"Whether the service of supply, erection, commissioning and installation of waste-water pretreatment plant followed by operation and maintenance of such plant attracts rate 12% of GST in terms of notification No.11/2017 Central Tax (rate) Dated: 28/06/2017?"** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 17/2021 dated 25.03.2021**	**Facts of the Case:** The applicant, M/s. Arvind Envisol Limited submitted that they are engaged in providing end-to-end solutions for water treatment, industrial waste-water treatment, sewage treatment zero liquid discharge solutions, on engineering and procurement construction key basis, by setting up effluent treatment plant (ETP), sewage treatment plant (STP), Packaged STP (PSTP), and Zero Liquid Discharge Plant (ZLD). The applicant also provides services in the nature of operation and maintenance of such plants.

			The applicant submitted that M/s Karnataka Power Corporation Limited (hereinafter referred as KPCL) has awarded a contract to the applicant for supply, erection, commissioning and installation of a wastewater treatment plant (ZLD plant) followed by its operation and maintenance (O&M) for a period of 5 years. The applicant has to carry out the work as detailed in the letter of award issued by the KPCL. The applicant has sought the advance ruling on the issue whether the service of supply, erection, commissioning and installation of wastewater pretreatment plant followed by operation and maintenance of such plant attracts rate 12% of GST in terms of notification No. 11/2017 Central Tax (rate) Dated June 28, 2017. **Views of Karnataka Authority of Advance Ruling:** The Coram of Dr.M.P.Ravi Prasad and Mashood Ur rehman Farooqui ruled that service of supply, erection, commissioning and installation of waste water pretreatment plant (ZLD plant) and the services of Operation and Maintenance (O&M) of the said plant together is composite supply of works contract classified under SAC 9954 and is liable to 6% CGST and 6% KGST in terms of entry No.3(üi) of the Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017 as amended by Notification No. 20/2017-Central Tax (Rate) dated August 22, 2017 and Notification No. 31/2017-Central Tax (Rate) dated October 13, 2017. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that 12% GST on service of supply, erection, commissioning and installation of wastewater pretreatment plants.

Hadi Power Systems	**Whether concessional rate of GST shall apply to the sub-contractor who is sub-contracted from a sub-contractor of the main contractor, the main contractor being provider of works conract to a Government entity?** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 18/2021 dated 06.04.2021**	**Facts of the Case:** The applicant, M/S Hadi Power Systems is a proprietary concern registered under the Goods and Services Tax Acts and is engaged in the business of execution of works contracts relating to electrical works and electrical infrastructure. The applicant states that M/S. Ocean Constructions (India) Pvt. Ltd., has been awarded a contract by M/S Karnataka Neeravari Nigam Ltd. for civil, electrical and mechanical works. M/S Karnataka Neeravari Nigam Ltd is being registered as a company which is wholly owned Government of Karnataka, as per the provisions of the Companies Act, 1956 with effect from 9th December 1998 for civil, electrical and mechanical works. The applicant also states that the nature of works delegated to the main contractor, M/S. Ocean Construction (India) Pvt. Ltd. is for the construction of Channa basaveshwara Lift Irrigation Scheme which includes preparation of plans and drawings, construction of intake canal, jack well cum pump house, Rising main, Electrical sub-station, erection of vehicle turbine pumps, including commissioning of entire project, including maintenance for 5 years period on turnkey basis. The applicant has also stated that the main contractor has subcontracted the certain electrical works to M/S Shaaz Electricals. Further, the first subcontractor has in turn entered into a sub-contract agreement with the applicant for providing electrical works. The applicant sought the advanced ruling on the issue whether concessional rate of GST shall apply to the sub-contractor who is sub-contracted from a sub-contractor of the main contractor, the main contractor being provider of works contract to a Government entity.

			Views of Karnataka Authority of Advance Ruling: The Coram of Dr. M.P.Ravi Prasad and Mashood Ur Rehman Farooqui observed that the privity of contract is between the applicant and the M/S Shaaz Electricals, however M/S Shaaz Electricals is not covered under Central Government, State Government, Union Territory, a local authority or a Governmental Authority or a Government Entity and hence the supply made by the applicant is not covered entry no.3 (iii) of Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017. For the same reason, the activity of the applicant is also not covered under entry no. 3(vi) of the Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017 (as amended). The AAR ruled that that the activity under consideration undertaken by the applicant is not covered under entry no.3(ix) or under entry 3(iii) or under entry 3(vi)of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended) and hence applicant is not liable to charge concessional rate of 12% GST on the said supply, and the applicant has to discharge tax rate 18% GST. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that the 18% GST is applicable on contract relating to electrical works from sub-contractor for work of Government Company.

Puttahalaga-iah G.H.	Whether Rent received from Backward Classes Welfare Department, is taxable or not? (Karnataka Authority of Advance Ruling)	KAR ADRG 19/2021 dated 06.04.2021	**Facts of the Case:** The applicant, Sri Puttahalagaiah is an individual and owner of the premises and has entered into an agreement with the Extension Officer, Backward Classes Welfare Department, Government of Karnataka to rent out his property to run post metric Girl's Hostel and constitute rent/ letting out of 10,441 sq.ft building consisting of seven rooms, two halls, 11 toilets, 10 bathrooms and bore well, for a rent of Rs. 1 per month. The applicant has furnished a magazine published by the Government of Karnataka which pertains to action plan of backward classes Welfare Department 2019-20, where in it is reported that backward Classes Welfare Department has been established for the welfare of backward classes to implement programmes of overall development of backward classes which are notified by the Government of Karnataka. The Backward Classes Welfare Department is providing hostel facilities to the students of backward classes studying in Government/ Government aided institutions after matriculation. The applicant is of the opinion that since he is letting out his property to Backward Classes Welfare Department who in turn is using it for welfare of weaker section of the society of the backward classes students where the annual income of the family is less than threshold for the creamy layer, therefore the service provided by him to Backward Classes Welfare Department to run post metric Girl's Hostel is exempted service as it is covered under Article 243G of the Constitution.

			The applicant has sought the advance ruling in respect of the taxability of rent received from Backward Classes Welfare Department. **Views of Karnataka Authority of Advance Ruling:** The Coram of Dr. M.P.Ravi Prasad and Mashood Ur Rehman Farooqui noted that the applicant has rented his property to the Backward Classes Welfare Department, Government of Karnataka, who in turn is using the same for providing hostel facilities to the post metric girls of backward classes. This is in relation to the function entrusted to a panchayat under article 243G of the constitution which is covered by the 27th entry of the 11th schedule which says Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. The AAR ruled that since the applicant is providing to the State Government pure services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution, the same is covered under entry number 3 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, and hence is exempted under the CGST Act, 2017. For the same reasons, the activity is also exempted under the KGST Act, 2017. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that no GST is applicable on Rent received from Backward Classes Welfare Department.

Bharat Earth Movers Limited	**"Whether the supplies made by Cost Centres C, D, E and G are independent supplies of goods and services (as applicable) or composite supply with principal supply of goods?"** **(Karnataka Authority of Advance Ruling)**	**KAR ADRG 20/2021 dated 06.04.2021**	**Facts of the Case:** The applicant, Bharat Earth Movers Limited is a Public Sector Undertaking, engaged in manufacture of a wide range of products to meet the needs of mining, construction, power, irrigation, fertilizer, cement, steel and rail sectors. The applicant was a successful bidder to the tender invited by BMRCL for Supply of "150 numbers of Standard Gauge Intermediate Cars compatible with and suitable for integration with existing trains of Bangalore Metro Rail Project Phase- 1" procured under Contract. The Applicant entered into a contract with BMRCL vide Contract. In relation to the scope of work under the contract, the applicant states that as per the terms of the contract, the broad scope of activity to be undertaken by the applicant was to manufacture and supply the Standard Gauge Intermediate Cars along with the installation and commissioning of the cars supplied, including training, supervision of maintenance, supply of spares, preparation of manuals etc. The applicant has sought advance ruling on the issue whether the supplies made by Cost Centres C, D, E and G are independent supplies of goods and services (as applicable) or composite supply with principal supply of goods. **Views of Karnataka Authority of Advance Ruling:** The Coram of Dr. M.P.Ravi Prasad and Mashood Ur Rehman Farooqui held that the supplies made by the applicant under Cost Centres C, D, E and G form a composite supply and since the supply of intermediate cars is the principal supply, would be treated as the supply of intermediate cars as per section 8 of the CGST Act, 2017 and section 12 of the CGST Act, 2017 is applicable to the issues related to the time of supply.

			Conclusion: The Karnataka Authority of Advance Ruling (AAR) ruled that the supply made by Cost Centers of Bharat Earth Movers Limited is composite supply.
SKF Boilers and Driers (P) Ltd.	**1. Whether parboiling and rier plant is part of rice milling machinery as specified in the Notification dated 28-06-2017 under HSN 8437 issued under the CGST Act, 2017 taxable at 5% (2.5% CGST + 2.5% SGST)?** **2. If the above mentioned plant/ machinery is not classified under HSN 8437, whether the same is to be taxed under HSN 8419 at the rate of 18% in the Notification dated 28.06.2017 (9% CGST + 9% SGST)?** **(Karnataka Authority of Advance Ruling)**		**Facts of the Case:** The applicant, M/s SKF Boilers and Driers (P) Ltd. has submitted that a paddy processing plant consists of various sections which are involved with the activities of parboiling rice, drying, rice milling, and polishing. Parboiling is a process of soaking, steaming and drying prior to milling. The applicant has sought advance ruling on the issue of 1. Whether parboiling and rier plant is part of rice milling machinery as specified in the Notification dated 28-06-2017 under HSN 8437 issued under the CGST Act, 2017 taxable at 5% (2.5% CGST + 2.5% SGST)? 2. If the above mentioned plant/ machinery is not classified under HSN 8437, whether the same is to be taxed under HSN 8419 at the rate of 18% in the Notification dated 28.06.2017 (9% CGST + 9% SGST)? **Views of Karnataka Authority of Advance Ruling:** The Coram of Dr. M.P.Ravi Prasad and Mashood Ur Rehman Farooqui held that Parboiling and Drying plant is classified under HSN 8419 Entry No.320 at the rate of 18% as per Notification No. 1/2017 -Central Tax (Rate) dated 28th June, 2017 (9% CGST + 9% SGST) as amended vide Notification No.41/2017-Centra1 Tax (Rate) dated the 14th November, 2017. **Conclusion:** The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST is applicable on Parboiling Rice and Drying plant.

Uralungal Labour Contract Co-op Society Ltd	**Whether the educational courses which are conducted in Indian Institute of Infrastructure and Construction fall under taxable service or not?** **(Kerala Authority of Advance Ruling)**	**KER/126/2021 dated 31.05.2021**	**Facts of the Case:** The applicant, Uralungal Labour Contract Co-operative Society Ltd is primarily engaged in the construction of roads, bridges and other public infrastructure for the Government and other institutions. The applicant entered into an agreement with Kerala Academy for Skills Excellence (KASE), the State Skill Development Mission of the Government of Kerala, under the Department of Labour and Skills for setting up and operating of the Indian Institute of Infrastructure and Construction (IIIC), Chavara, Kollam. The applicant has sought the advance ruling on the issue of whether the educational courses which are conducted in the Indian Institute of Infrastructure and Construction (IIIC) fall under the taxable service. **Views of Kerala Authority of Advance Ruling:** The Coram of Members Sivaprasad and Senil K. Rajan held that IIIC has initiated action to get affiliation under various Universities and that no formal recognition has been given to IIIC and the courses conducted there, the Government declares that IIIC, Chavara is a Government-owned institute and the courses that are being conducted in the said institute are approved by the Government. In view of the above declaration that IIIC is a Government-owned institute and the approval of the courses conducted by IIIC by the Government of Kerala, IIIC has attained the status of an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by law. Consequently, IIIC qualifies to be classified as an educational institution as defined under sub-clause (ii) of clause (y) of Paragraph 2 of the Notification No. 12/2017 CT (Rate) dated June 28, 2017. Therefore, the courses conducted in the Indian Institute of Infrastructure and Construction are exempted from GST as per entry at SI No. 66 of Notification No. 12/2017 Central Tax (Rate) dated June 28, 2017.

			The applicant has further asked that what is the value of services, for services for the period 01.07.2017 onwards for which appropriation towards an undivided share of land was already done in pre – GST period; whether the one-third deduction as provided for in Para 2 of Notification No. 11/2017 can again be taken where the value of undivided share already appropriated is lower than one-third of the total amount receivable for the project including land value. The AAR has ruled that the provisions of Para 2 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 will apply for determining the taxable value of the services rendered for the period from 01.07.2017 and accordingly one-third of the total amount charged for the supply shall be deemed to be the value of land or undivided share of land involved in the supply. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that Courses conducted by the Indian Institute of Infrastructure and Construction (IIIC) are eligible for exemption from GST, as it is an 'Educational Institution'.
Kerala Books and Publications Society	**1. printing text books for supply by the State Government to its allied educational institutions.** **2. printing of Lottery tickets for vending by the State Government to the general public. iii)printing of stationery items like calendars, Diaries etc. for supply by the State Government to its offices and other institutions.** **(Kerala Authority of Advance Ruling)**	**KER/125/2021 dated 31.05.2021**	**Facts of the Case:** The applicant, Kerala Books, and Publications Society was constituted as a society by the Government of Kerala of the Higher Education Department. The society is registered under the Travancore Cochin, Literary, Scientific and Charitable Societies Registration Act, 1955. The said society is running the printing press till date. The Governing body of the society consists wholly of officers from the Government.

			They have progressed into the printing of lottery tickets and stationery items like brochures, diaries, calendars, etc in addition to the textbooks for school children. Their customer for the printed textbooks and the lottery tickets is solely the State Government. In respect of the printed stationery items, the customers vary from the State Government and its allied educational institutions to other departments of the State Government. The State Government does not charge GST on the school textbooks supplied by it to the end customers; i.e. allied educational institutions. The school textbooks are supplied on a no-profit / no-loss basis to the said educational institutions. They have been incurring losses on the printing of the said school textbooks. In respect of all the above activity carried out by them the print content and its features that are to be printed is designed solely by the customer; i.e; the Government of Kerala. They only arrange the paper and then print the said content on the paper. They do not own the usage rights to the said content given to them. The applicant has sought the advance ruling on the issue of whether our activities namely printing textbooks for supply by the State Government to its allied educational institutions; printing of Lottery tickets for vending by the State Government to the general public; and printing of stationery items like calendars, Diaries, etc. for supply by the State Government to its offices and other institutions fall within the ambit of the scope of 'supply' under GST.

			Views of Kerala Authority of Advance Ruling: The coram of Members Sivaprasad and Senil K. Rajan all the activities undertaken by the applicant constitute supply as defined in Section 7 of the CGST Act. The activities constitute a supply of services falling under Heading – 9989 – Other manufacturing services; publishing, printing and reproduction services; materials recovery services – 998912 – Printing and reproduction services of recorded media, on a fee or contract basis of the Scheme of Classification of Services. "The service of printing of Textbooks supplied by the applicant to the State Government is exempted from GST as per entry at SI No. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 as amended," the AAR said. The AAR further ruled that the service of printing of lottery tickets and stationery items like Diary, Calendar etc supplied by the applicant to the State Government are not exempted under Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 as amended **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that the Printing of textbooks, Lottery tickets & stationery items for the State Govt. is supplied under GST.

VKL Builders India Private Limited	**The provisions of Para 2 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 will apply for determining the taxable value of the services rendered for the period from 01.07.2017 and accordingly one third of the total amount charged for the supply shall be deemed to be the value of land or undivided share of land involved in the supply.** **(Kerala Authority of Advance Ruling)**	**K E R / 1 1 9 / 2 0 2 1 dated 30.05.2021**	**Facts of the Case:** The applicant, VKL Builders India Private Ltd. is engaged in the construction of flats in Thiruvananthapuram. The applicant has sought the advance ruling on the issue in respect of the rate of tax for services provided to the customers for the period 01.07.2017 to 31.03.2019 as per Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the services of construction of all the 12 different types of residential apartments as mentioned in the question in the project-Santhi Homes, Pothencode during the period from 01.07.2017 to 31.03.2019 is liable to GST at the rate of 18% [9% – CGST + 9% – SGST] as per Item (i) of 51 No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) clarified the dates of GST refund in case of cancellation of residential flats by customers.

Aswath Manoharan	**Banana Chips are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% [6% CGST + 6% SGST].** **Jackfruit Chips are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% [6% CGST + 6% SGST].** **Tapioca Chips are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% [6% CGST + 6% SGST].** **Jaggery Coated Banana Chips [Sarkaraupperi] are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% [6% CGST + 6% SGST].** **(Kerala Authority of Advance Ruling)**	**KER/120/2021 dated 30.05.2021**	**Facts of the Case:** The applicant, K. Swaminathan, M/s. Banana Chips & Halwa Merchant is engaged in business as a supplier of goods such as Banana Chips, Jackfruit Chips, Sharkaraivaratty and Halwa without brand name. The applicant requested for advance ruling in respect of GST on Jackfruit Chips, Banana Chips (made out of both raw as well as ripe banana), Banana Chips (masala) sold without brand name, Sharkarai varatty and Halwa sold without brand name, roasted and salted or salted or roasted preparations such as of Ground nuts, Cashew nut and other seeds are namkeens and when sold without a brand name, and salted and masala chips of Potato and Tapioca are classifiable as Namkeens and when sold without a brand name. The applicant contended that the Jackfruit Chips, Banana Chips, Sarkara Varatty and Halwa are sold without brand name. Jackfruit chips are made by frying the fruit in edible oil. Banana Chips are made by slicing raw / ripe bananas into thin round pieces and frying in edible oil. Salt and Turmeric are also applied. By adding masala, fried banana masala chips are prepared. Sarkara Varatty is made by frying thick pieces of banana slices in edible oil. Thereafter, they are mixed thoroughly in dense syrup of jaggery and then mixed in powder of dried ginger and cardamom. Halwa is made by cooking prepared maida flour in edible oil. After cooking, sugar and flavour are added and Halwa is ready for sale. Thus Jackfruit Chips, Banana Chips, Sharkara Varatty and Halwa are edible preparations and the first two are savoury and the last two-Sharkara Varatty and Halwa are Sweetmeat. Accordingly, the applicant is levying GST at the rate of 5% by classifying the commodities under Entry 101A of Schedule I of Central Tax (Rate) Notification No.1 of 2017.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the Jackfruit Chips and Banana Chips, Sharkara Varatty, Roasted / salted / roasted and salted Cashew nuts, and salted and masala chips of Potato and Tapioca are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% (6% -CGST + 6% – SGST) as per Entry at SI No. 40 of Schedule II of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 12% GST on Chips, Sharkarai varatty, Roasted and Salted Cashew nuts and Namkeens.
Malankara Orthodox Syrian Church Medical Mission Hospital	**Whether GST is leviable on the value of supply of medicines, implants and other supplies issued to patients during the course of treatment.** **(Kerala Authority of Advance Ruling)**	**KER/118/2021 dated 30.05.2021**	**Facts of the Case:** The applicant, M/s. Malankara Orthodox Syrian Church Medical Mission Hospital is supplying medicine, implants, and other supplies to their patients during the course of treatment who are admitted as inpatients and who are not admitted but undergoing treatment in their hospital as outpatients. They are supplying medicines only to patients who are registered in their hospital as a patient against prescription from their treating Doctors. The patients have the option to purchase medicine and other supplies from outside pharmacies, subject to quality assessment by the hospital. In certain cases where choices are available as brand or type (for example metal implant vs. titanium implants), the patient is at liberty to choose out of the available items and the bill will be prepared accordingly. This is not applicable in the case of 'all-inclusive packages.

			The applicant is issuing tax invoices as per the GST law for the supply of medicines and other supplies through the pharmacy to both inpatients and outpatients. They are also disclosing the GST included in the MRP in the tax invoice for the supply of medicines and they are paying the tax to the Government as per the requirements of GST law. The applicant sought the advanced ruling on various issues. Firstly, whether GST is leviable on the value of supply of medicine, implants, and other supplies issued to patients during the course of treatment. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A. K. Rajan ruled that in the case where a package is offered to the patient which covers the treatment, required medicines, required supplies, etc. for a consolidated amount. This amount was prefixed by the hospital with respect to the treatment of a particular disease or surgery and charged to patients irrespective of the type and quantity of medicine, supplies, etc. issued to patients. It is a composite supply of which the principal supply is healthcare services and the other supplies are only incidental or ancillary to the supply of healthcare services. Therefore, the supply of medicines, implants, and other items to the inpatients admitted to the hospital for treatment as per the package offered by the applicant is a composite supply where the principal supply is healthcare services falling under SAC 999311.

			The AAR said that in the case where a package is offered to the patient which covers the treatment for a consolidated amount and this amount is prefixed by the Hospital with respect to the treatment of a particular disease or surgery. But the supply of medicine and certain other supplies like implants are not included in this package and will be billed extra, according to the type and quantity of items issued to the patient. The healthcare services supplied by the applicant as per the package is exempted and the supply of medicines, implants, and other items that are not included in the package and which are separately billed shall attract GST at the rate applicable to such items as per the GST Tariff Schedule. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that GST exempted on composite supply of healthcare services and the other incidental supplies.
Victoria Realtors	**Whether the new tax rate of 7.55 with no ITC is applicable to the 11 unbooked units in the said Vrindhavan Project and if it is applicable for similar projects in similar situations.** **(Kerala Authority of Advance Ruling)**	**KER/116/2021 dated 28.05.2021**	**Facts of the Case:** The applicant, Victoria Realtors started the activities from 2012 onwards. They first identify locations suitable for the gated community villa projects and will buy land in their own name and take layout approval in their name and promote the villas to various villa buyers. In another situation, they identify locations suitable for the gated community villa projects and enter into an agreement with the landlords for the purchase of the entire land area required for the project. The total area of land is divided into various plots and the layout approval is taken in the name of the landlord and the villa approval is taken either in the name of the landlord or in the name of villa buyers from concerned local authorities at their expense. After the approval from local authorities, they provide amenities like roads, arches, compound walls, rainwater harvesting, health club, etc required for the gated communities. They do marketing activities such as digital, paper ads, media advertisement, etc, and identify suitable villa buyers for the projects.

			The applicant has sought the advance ruling on the issue of whether the new tax rate of 7.5% (effective rate of 5% after excluding land portion), with no ITC, is applicable to the 11 unbooked units in the said VRINDHAVAN project. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that Since the applicant has exercised the option for paying tax at the rate as specified in Item in respect of the ongoing project "VRINDHAVAN", the old rate of tax at 18% (9%-CGST + 9% – SGST) with the input tax credit is applicable for all the apartments/villas comprised in the project-"VRINDHAVAN". **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 18% GST payable if the builder fails to exercise the option of the lower rate.
Shri N. M. Thulaseed-haran, M/s N. V. Chips	**12% GST on Salted and Masala Chips of Potato and Tapioca, Jackfruit Chips, Roasted and Salted Groundnuts, Cashew Nuts.** **(Kerala Authority of Advance Ruling)**	**KER/114/2021 dated 26.05.2021**	**Facts of the Case:** The applicant, N. M. Thualseedharan, M/s. N.V. Chips is engaged in business as a supplier of Jackfruit Chips without the brand name. The applicant purchases Jackfruit Chips from other registered persons making Jackfruit Chips. They levy tax at the rate of 5% under HSN Code 1903 and accordingly the applicant also classified it under the same HSN Code and levied tax at the rate of 5%. The applicant also intends to engage in the supply of salted as well as masala chips made from Tapioca and Potato, roasted/roasted and salted/salted preparations made out of groundnuts, cashew nuts and other seeds.

			The applicant has sought the advance ruling on the issue of whether Jackfruit Chips sold without BRAND NAME are classifiable as NAMKEENS and are covered by HSN code 2106.90.99 and taxable under Entry 101A of Schedule. Whether roasted and salted/salted/roasted preparations such as of groundnuts, cashew nut and other seeds are NAMKEENS and when sold without a brand name can they be classified under HSN 2106.90.99 and taxed under Entry 101A of Schedule 1. The applicant has further sought the ruling on Whether salted and masala chips of Potato and Tapioca are classifiable as Namkeens and when sold without a brand name can they be classified under HSN 2106.90.99 and taxed under Entry 101A of Schedule 1.
			Views of Kerala Authority of Advance Ruling: The coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A. K. Rajan ruled that the Jackfruit Chips are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% as per Entry at SI No. 40 of Schedule II. The AAR ruled that roasted/salted/roasted and salted Cashew nuts are classifiable under Customs Tariff Heading 2008.19.10 and roasted/salted / roasted and salted Groundnuts and other nuts are classifiable under Customs Tariff Heading 2008.19.20 and is liable to GST at the rate of 12% as per Entry at SI No. 40 of Schedule II. The salted and masala chips of Potato and Tapioca are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% (6% -CGST + 6% – SGST) as per Entry at SI No. 40 of Schedule II of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017," the AAR said.

			Conclusion: The Kerala Authority of Advance Ruling (AAR) ruled that 12% GST on salted and masala chips of Potato and Tapioca, Jackfruit Chips, roasted and salted groundnuts, and cashew nuts.
Cigma Medical Coding Private ltd	**1. Whether the payment made to the American Academy of Professional Coders (AAPC) as examination fee for students on behalf of some of the students of the applicant institute as a pure agent is service under GST and is there any tax liability for the same when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.** **2. Whether the payment made to AAPC as examination fee on behalf of outside students as pure agent is service under GST and is there any tax liability for the same when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.** **(Kerala Authority of Advance Ruling)**	**KER/111/2021 dated 26.05.2021**	**Facts of the Case:** The applicant, M/s. Cigma Medical Coding Private Ltd is engaged in providing training for students in medical coding. The medical coding examination is conducted and certified by the American Academy of Professional Coders (AAPC) having its headquarters in Salt Lake City, Utah, United States of America (USA). The applicant also helps some of their students to pay the examination fees for the medical coding examination conducted by AAPC by arranging an online facility/platform for making payment without collecting any service charge. Students can also pay their examination fee directly to AAPC. The applicant provides this fee payment facility to interested students for easy payment of fees without any hardship to students since the e-payment of fees through conversion of Indian Rupee to Dollar may not be easy to students who are not familiar with online foreign currency transfer payment. Moreover, there is every chance for errors in depositing fees to the particular account head of the foreign recipient. Neither the student nor AAPC is paying any service charge to the applicant for such remittance for examination fees. The applicant is providing this free fee payment facility to all interested students, including those who are not attending the training program of the applicant.

			The applicant has sought the advance ruling on the issues whether the payment made to the American Academy of Professional Coders (AAPC) as examination fee for students on behalf of some of the students of the applicant institute as a pure agent is service under GST and is there any tax liability for the same when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC. Yet another issue raised was whether the payment made to AAPC as examination fee on behalf of outside students as pure agent is service under GST and is there any tax liability for the same when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the collection and payment of examination fee to AAPC by the applicant on behalf of the students who are enrolled for training with the applicant is not liable to GST subject to fulfillment of the conditions stipulated under Rule 33 of CGST Rules 2017. "The collection and payment of examination fee to AAPC by the applicant on behalf of outside students (who are not enrolled for training with the applicant) without collecting any service charge either from students or AAPC is not liable to GST," the AAR ruled. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that no GST payable on payment of examination fee on behalf of students to American Academy of Professional Coders (AAPC) as a pure agent.

Alleppey Fibretuft Pvt. Ltd.	**PVC tufted Coir mats and matting are appropriately classifiable under Customs** **Tariff Item 5703.90.90 and attracts GST at the rate of 12%.** **(Kerala Authority of Advance Ruling)**	**KER/110/2021 dated 26.05.2021**	**Facts of the Case:** The applicant, Alleppey Fibretuft Pvt Ltd is engaged in the manufacture and sale / supply of "PVC Tufted Coir Mats and Matting" in the local / domestic market. The applicant submits that the PVC Tufted Coir Mats and Matting are manufactured using technologically advanced machines. The machine is designed in such a way that coir yarn stacked in creel stand is automatically fed into cutting / tufting head where that yarn is cut into bits of required pile height and tufted over a uniform thickness PVC base in conveyor belt which is cured by passing over heated radiators (Heating Zone) and then chilled surface (chilling zone) of the continuous process machinery. The PVC base solidifies and results in formation of PVC matting in rolls which can also be cut into mat size by longitudinal and cross cutting. All the above process is done in this machine automatically and this requires minimum labour for operation. The applicant has sought the advance ruling on the issue 1. whether or not item number (A) (xiii) in Schedule 1 2.5% (which reads as in SI.No.219, in column (2), for the figure, '5705', the figures '5702, 5703, 5705', shall be substituted), referred to in Notification No.34/2017-Central Tax (Rate) dated 13.10.2017 is meant to cover PVC Tufted coir Mats and Matting. 2. Whether or not PVC Tufted Coir Mats and Matting attract a low band of tax rates as per the recommendations of the Fitment Committee and approval of the GST Council.

			3. whether or not PVC Tufted Coir Mats and Matting can be classified under tariff item 5703.90.90 — Of other textile material — Other corresponding to entry in SI.No.144 of Schedule II attracting 12% GST. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that No. SI No. 219 of Schedule I of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No.34/2017-Central Tax (Rate) dated 13.10.2017 does not cover PVC Tufted Coir mats and matting. "PVC tufted Coir mats and matting are appropriately classifiable under Customs Tariff Item 5703.90.90 and attract GST at the rate of 12% (CGST — 6% + SGST- 6%) as per entry at SI. No. 144 of Schedule II of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017," the AAR observed. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 12% GST payable on PVC tufted Coir mats and matting.

United Rubber Industries	**Whether "Mats, Mattings and Floor Covering of Coir, if backed by PVC, Rubber, Latex etc would fall under Tariff Headings 5702, 5703 & 5705 at Sl No.219 of Schedule1 of Notification No.1/2017 CGST(Rate) dated28-062017 within the 5% tax net depending upon the respective manufacturing process of its exposed surface.** **(Kerala Authority of Advance Ruling)**	**KER/109/2021 dated 26.05.2021**	**Facts of the Case:** The applicant, United Rubber Industries manufactures mats, mattings and floor coverings of coir by various processes like weaving, tufting etc and are classified under headings 5702, 5703 and 5705 based on the method of manufacture. During such manufacturing process products may or may not be impregnated or embedded with Rubber, Latex, PVC etc for providing the backing for the surface textile, according to the customer specification. In all the cases products will have coir as its exposed surface. Such products irrespective of the backing are identified / known as coir products in the market or trade parlance. As there is a general confusion among the trade as to whether coir products if backed by Rubber / PVC / Latex etc would come under the terminology "Coir mats, mattings and floor covering" and the rate of GST applicable on such backed product, the applicant has sought the advance ruling on the issue whether "Mats, Mattings and Floor Covering of Coir", if backed by PVC, Rubber, Latex etc would fall under Tariff Headings 5702, 5703 and 5705 at SI. No.219 of Schedule I of Notification No.1/2017-CGST (Rate) dated June 28, 2017, within the 5% tax net, depending upon the respective manufacturing process of its exposed surface.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that Mats, Matting and Floor Covering of Coir backed by PVC, Rubber, Latex etc are appropriately classifiable under Tariff Sub- Heading 5703 90 90 of First Schedule of the Customs Tariff Act, 1975 and attracts GST at the rate of 12% (6% CGST and 6% SGST) as per entry at SI No. 144 of Schedule II of Notification No.1/2017-CGST (Rate) dated June 28, 2017. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 12% Goods and Service Tax (GST) is payable on Mats, Matting & Floor Covering of Coir backed by PVC, Rubber, and Latex.
CC FABS	**Whether the activity of tanker body building is supply of goods or supply of services. If it is supply of goods what is the applicable rate of GST and if it is the supply of services what is the applicable rate of GST. What will be the service code for above stated activity of tanker body building carried out on chassis of motor vehicle owned by customer.** **(Kerala Authority of Advance Ruling)**	**KER/107/2021 dated 25.05.2021**	**Facts of the Case:** The applicant, CC FABS is engaged in tanker body fabrication on the chassis given by the customer on a job work basis. The customers purchase the chassis and hand it over to the applicant for fabricating the tanker body. On receipt of chassis, a work order with the specifications of the tanker body will be raised and on acceptance of the same by the customer, the materials used for structural fabrication of the tanker will be procured and the tanker body will be built on the chassis. The processes involved in the manufacturing activity are receiving chassis at the workshop; purchase of raw steel; cutting and bending of raw materials; welding of all cut and bend parts; assembly of all fabricated parts and statutory parts; and final product on chassis and delivery of the tanker with license.

			The applicant has sought the advance ruling on the issue of whether the activity of tanker bodybuilding on a job work basis, on the chassis supplied by the customer, is the supply of goods or a supply of service. If it is a supply of services, what is the applicable rate of GST, and what will be the service code (tariff) for the above-stated activity of tanker bodybuilding carried out on chassis of motor vehicles owned by customers? **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad, and Additional Commissioner of State Tax, Senil A.K.Rajan observed that the activity of tanker bodybuilding on the chassis supplied by the customer is a supply of service. "The activity is liable to GST at the rate of 18% as per entry at SI No. 26 (iv) 9988 "Manufacturing services on physical inputs (goods) owned by others Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above" of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017," the AAR said. The AAR further ruled that the activity of tanker bodybuilding on the chassis owned by the customer is classifiable under Service Accounting Code 998881. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that Tanker bodybuilding on job work basis, on chassis supplied by the customer is Supply of Services and 18% GST is payable.

K. Swam-inathan, M/s Banana Chips & Halwa mer-chant	Whether jackfruit chips, banana chips sold without brand name are classified as NAMKEENS and are covered by HSN Code 2106. 90.99 and are taxable under Entry 101A of Schedule of Central Tax (rate) Notification 1/2017. Whether the commodities Sharkarai varatty and Halwa sold without brandname is classified as SWEET MEATS and covered by HSN code 2106.90.99 and taxable under Entry 101A of Schedule of Central Tax(Rate) notification 1/2017. Whether roasted/ salted nuts, seeds potato and tapioca can be classified as NAMKEENS and when sold without brand name can they be classified under HSN 2106.90.99 and taxed under Entry 101A of Schedule 1 of Central Tax (Rate) Notification No.1 of 2017 (Kerala Authority of Advance Ruling)	KER/105/2021 dated 25.05.2021	**Facts of the Case:** The applicant, K. Swaminathan, M/s. Banana Chips & Halwa Merchant is engaged in business as a supplier of goods such as Banana Chips, Jackfruit Chips, Sharkaraivaratty and Halwa without brand name. The applicant requested for advance ruling in respect of GST on Jackfruit Chips, Banana Chips (made out of both raw as well as ripe banana), Banana Chips (masala) sold without brand name, Sharkarai varatty and Halwa sold without brand name, roasted and salted or salted or roasted preparations such as of Ground nuts, Cashew nut and other seeds are namkeens and when sold without a brand name, and salted and masala chips of Potato and Tapioca are classifiable as Namkeens and when sold without a brand name. The applicant contended that the Jackfruit Chips, Banana Chips, Sarkara Varatty and Halwa are sold without brand name. Jackfruit chips are made by frying the fruit in edible oil. Banana Chips are made by slicing raw / ripe bananas into thin round pieces and frying in edible oil. Salt and Turmeric are also applied. By adding masala, fried banana masala chips are prepared. Sarkara Varatty is made by frying thick pieces of banana slices in edible oil. Thereafter, they are mixed thoroughly in dense syrup of jaggery and then mixed in powder of dried ginger and cardamom. Halwa is made by cooking prepared maida flour in edible oil. After cooking, sugar and flavour are added and Halwa is ready for sale. Thus Jackfruit Chips, Banana Chips, Sharkara Varatty and Halwa are edible preparations and the first two are savoury and the last two-Sharkara Varatty and Halwa are Sweetmeat. Accordingly, the applicant is levying GST at the rate of 5% by classifying the commodities under Entry 101A of Schedule I of Central Tax (Rate) Notification No.1 of 2017.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the Jackfruit Chips and Banana Chips, Sharkara Varatty, Roasted / salted / roasted and salted Cashew nuts, and salted and masala chips of Potato and Tapioca are classifiable under Customs Tariff Heading 2008.19.40 and is liable to GST at the rate of 12% (6% -CGST + 6% – SGST) as per Entry at SI No. 40 of Schedule II of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. "Halwa is appropriately classifiable under Customs Tariff Heading 2106 90 99 and is liable to GST at the rate of 5% (2.5%-CGST + 2.5% – SGST) as per SI No. 101 of Schedule I of Notification No. 01/2017 — Central Tax (Rate) dated 28.06.2017," the AAR said. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 12% GST on Chips, Sharkarai varatty, Roasted and Salted Cashew nuts and Namkeens.

South Indian Federation of Fishermen Societies	Applicability of GST rate of 5% on marine engines of heading 8407 and its spare parts without considering its general tax rate. Whether GST is applicable for supply of materials and labour charges incurred during warranty period at free of cost on fishing vessels presented for repair works. Applicability of GST rate of 5% on supply of materials and service charges for the repairs and maintenance of fishing vessels of heading 8902 without consideration of general tax rates. What is the tax rate of puff insulated iceboxes produced by SIFFS and that of marine engine of general heading 8407 when it is supplied to defence department, patrol, flood relief and rescue operations? (Kerala Authority of Advance Ruling)	KER/102/2021 dated 25.05.2021	**Facts of the Case:** The applicant, M/s. South Indian Federation of Fishermen Societies (SIFFS) is a non-Governmental Organization supporting the livelihood activities of small scale fishing communities in South India. The applicant is engaged in the business of supply of fishing boats (HSN 8902), ice boxes for fish preservation (HSN 3923) and marine engines (HSN 8407) to traditional small-scale fishermen communities at competitive prices. Fishing boats and iceboxes are manufactured by them while marine engines for fishing vessels are imported from outside India. The applicant has sought the advanced ruling on the issues regarding the applicability of GST rate of 5% on marine engines of heading 8407 and its spare parts without considering its general tax rate as per the entry of Schedule I, Sl.No.252 of GST Act dated 28-06-2017, being the part of a fishing vessel of heading 8902. Yet another issue raised was whether GST is applicable for supply of materials and labour charges incurred during the warranty period at free of cost on fishing vessels presented for repair works; Applicability of GST rate of 5% on supply of materials and service charges in connection with the repairs and maintenance of fishing vessels of heading 8902 without considering its individual general tax rates as per the entry of Sch. No.1, Sl.No.252 of GST Act dtd.28-06-2017, being the part of a fishing vessel of heading 8902. The applicant has also raised the issue regarding the tax rate of puff insulated iceboxes produced by SIFFS and used by traditional fishermen at their fishing vessels for the purpose of reducing fish spoilage and maintaining good hygiene and the tax rate of the marine engine of general heading 8407 when it is supplied to the defence department, patrol, flood relief and rescue operations.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the marine engine and its spare parts supplied for use in vessels falling under Customs Tariff Heading 8902 shall attract GST at the rate of 5% as per entry at SI No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017. If it is supplied for use other than as parts of fishing vessels, GST at the rate applicable under the respective Customs Tariff Headings in which they are classified will apply. The AAR further ruled the supply of goods or services or both during the warranty period without consideration in the discharge of the warranty obligation is not liable to GST. However, if any additional consideration is received in respect of such supplies of goods or services or both it will be liable to GST at the rate applicable for the goods/ services as per the rate schedule. "The supply of maintenance and repair service of fishing vessels is classifiable under SAC 998714 and is liable to GST at the rate of 18% [9%-CGST + 9%-SGST] as per SI No. 25 (ii) of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017. However, where the contract of supply of repair or maintenance specifies that the spare parts and services are to be separately charged and the value of such spare parts and services supplied are shown separately the spare parts and the services shall attract GST respectively at the rates applicable to such spare parts and service as per the GST rate schedule. In such cases, the spare parts are supplied for use as part of fishing vessels will attract GST at the rate of 5% as per entry at SI No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017 and the services will be liable to GST at the rate of 18% as per SI No. 25 (ii) of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017," the AAR said.

			The Authority held that the product falls under Customs Tariff Head 3923 and is liable to GST at the rate of 18% as per entry at SI No. 108 of Schedule III of Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017. "The marine engine that falls under Customs Tariff Heading 8407 when supplied for use as part of vessels falling under Customs Tariff Heading 8906: Other vessels, including warships (which aptly covers vessels for Defence and other agencies used for patrol, relief and rescue operations) shall attract GST at the rate of 5% [2.5%-CGST + 2.5% SGST] as per entry at SI No. 252 of Schedule I of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017," the AAR said. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 5% GST is payable on marine engines and its spare parts being part of fishing vessels.
Chellanam Grama panchayath	**Whether lease rent charged by Municipality / Panchayath for land i.e., water channel used for fish farming falls within the meaning of "services relating to rearing of all life forms of animals- by way of renting or leasing of vacant land" eligible for GST exemption as per Sl.No.54 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 and corresponding notification under Kerala GST** **(Kerala Authority of Advance Ruling)**	**KER/100/2021 dated 25.05.2021**	**Facts of the Case:** The applicant, Chellanam Grama Panchayath is a Local Self Government Institution and is engaged among other activities in leasing of wetland for fish farming. The applicant has allotted some wet land, i.e., water channel (paruthithodu chaal in Chellanam) on lease. The land is used for fish and crab farming. The person who has taken the wet land on auction has to pay the agreed auction amount. The applicant sought advance ruling on whether lease rent charged by Municipality / Panchayath for land i.e., water channel used for fish farming falls within the meaning of "services relating to rearing of all life forms of animals- by way of renting or leasing of vacant land" eligible for GST exemption as per Sl.No.54 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 and corresponding notification under Kerala GST.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that lease rent charged by Municipality / Panchayath for land i.e., water channel used for fish farming falls within the meaning of 'services relating to rearing of all life forms of animals- by way of renting or leasing of vacant land' eligible for GST exemption as per SI.No.54 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 and corresponding notification under Kerala GST. "The services relating to cultivation of plants and rearing of all life forms of animals by way of renting or leasing of vacant land with or without structures is exempted under the entry. The conditions to be satisfied are; (1) vacant land with or without structures is provided; (2) the land should be provided on lease or rent; and (3) the activity for which the land is provided should be cultivation of plants or rearing of animals. In the instant case the applicant is providing a water channel (paruthithodu chaal in Chellanam) and there is no doubt that the water channel comes under the category of land. Thus the first condition is satisfied. The nature of provision of the land as evidenced by the allotment letter and agreement comes within the scope of definition of renting of immovable property in Para 2 (zz) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and hence the second condition is satisfied," the AAR said. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that no GST is payable on Renting/Leasing of vacant land used for fish farming.

St. Thomas Hospital	Whether the medicines, surgical items, implants, stents and other consumables used in the health care services and food to inpatients would be considered as "Composite Supply" of health care under GST and can have an exemption of GST. (Kerala Authority of Advance Ruling)	KER/108/2021 dated 26.05.2021	**Facts of the Case:** The applicant, M/s. ST. Thomas Hospital has a multi-speciality hospital providing health care services with professionals like doctors, nursing staff, lab technicians, etc. Medicines, surgical items, implants, stents and other consumables etc. are supplied through pharmacy to in-patients under the prescription of the doctors which are incidental to the health care services rendered in the hospital. The medicines and surgical items are taken from the inpatient pharmacy by the nursing staff to the bedside of the inpatients and managed by the nursing staff themselves. The inpatients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries / procedures required for the treatment. The Central store of the hospital procures stocks of medicines, implants, consumables etc from various suppliers and distributes to its outlets such as inpatient pharmacy, operation theatre pharmacy and outpatient pharmacy based on the indent issued. The inpatient pharmacy and operation theatre pharmacy supplies medicines, implants and consumables only to inpatients, whereas the outpatient pharmacy attached to the hospital entertains the medical prescription of outpatients. Applicant raise an invoice on the inpatients at the time of discharge in which the charges for various items like, room rent, lab and diagnostic services, surgery, doctor's consultation, nursing charge, diet charges, medicines, implants and other surgical items are included. Along with the rendering of healthcare services to inpatients, they also supply food to them. There are two categories of inpatients- while the food to be consumed by some of the inpatients are under the direction / supervision of the dietician, some other inpatients are not under any specific direction or supervision by the dieticians but only under general direction of doctors.

			The applicant has sought the advance ruling on the issues: i. Whether the medicines, surgical items, implants, stents and other consumables used in the course of providing health care services to inpatients admitted to the hospital for diagnosis, or medical treatment or procedures would be considered as "Composite Supply" of health care services under GST and consequently can exemption under Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 read with Section 8(a) of GST be claimed, ii. Whether the supply of food to all the inpatients would be considered as "Composite Supply" of health care services under GST and consequently can exemption under Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 read with Section 8(a) of GST be claimed. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that the supply of medicines, surgical items, implants, stents, and other consumables to inpatients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply where the principal supply is healthcare services falling under SAC 999311 which is exempted as per entry at Sl No. 74 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017.

			"The supply of food to inpatients admitted to the hospital for diagnosis, or medical treatment or procedures is a component of the composite supply where the principal supply is healthcare services falling under SAC 999311 which is exempted as per entry at Sl No. 74 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017," the AAR ruled. The AAR ruled that the eligibility of credit of tax paid on the inputs and input services used for taxable as well as exempted supplies are governed by the provisions of Section 17 (2) of the CGST Act, 2017 and Rule 42 of the CGST Rules, 2017. The eligible input tax credit shall be calculated as per the formula prescribed in Rule 42 of the CGST Rules, 2017. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that no GST payable on Composite supply of healthcare services.
Neogen Food and Animal Security(India) Private Ltd	**Whether Entry No.80 in Schedule II to the Notification No.1/2017Integrated Tax(Rate) dated 28-062017 is applicable for import as well as supply of "Laboratory reagents for rapid testing of food safety parameters" attracting a levy of integrated tax at the rate of 12% or Entry No. 453 to Schedule III Attracting a levy of integrated tax at the rate of 18%**	**KER/106/2021 dated 25.05.2021**	**Facts of the Case:** The applicant is engaged in contract of chemical and microbiological testing services and trading (import and sale) of Neogen Group products in the Indian market. The range of trading items includes Neogen's food safety products consisting of kits and laboratory reagents for dangerous or unintended substances' testing for food safety parameters. Their products are used by food processing companies, regulatory bodies etc to manage the risk in food caused by pathogens and toxic substances. The exhaustive list of about 254 products dealt by them that are predominantly used for food testing in lab / field / mobile vans/ for testing of processed and unprocessed foods, juices, cereals, nuts, spices etc and raw materials like wheat, rice, corn, fruits, and also milk (aflatoxin), poultry (egg allergen) and fish products in some cases (histamine).

			The applicant sought the advance ruling on issue whether Entry No. 80 in Schedule H to the Notification No. 01/2017 Integrated Tax (Rate) dated June 28, 2017 (as amended) is applicable for import as well as supply of "Laboratory reagents for rapid testing of food safety parameters", attracting a levy of integrated tax at the rate of 12% or Entry No.453 to Schedule III, attracting a levy of integrated tax at the rate of 18%. **Views of Kerala Authority of Advance Ruling:** The coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan observed that reagents referred to in Heading 3822 of the Customs Tariff includes both diagnostic and laboratory reagents. The Tariff Heading 3002 pertains to human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of microorganisms (excluding yeasts) and similar products and the Tariff Heading 3006 pertains to pharmaceutical goods specified in note 4 of chapter 30. Admittedly, the products supplied by the applicant are laboratory reagents which are predominantly used in food testing labs or in the field for testing of processed and unprocessed food. Hence, they do not fall under any of the sub – headings / tariff items under Heading 3002 or 3006 and therefore, they are appropriately classifiable under Customs Tariff Heading 3822 00 90.

			The AAR held that that the laboratory reagents for rapid testing of foods safety parameters supplied by the applicant is appropriately classifiable under Customs Tariff Heading 3822 00 90 and is liable to GST at the rate of 12% as per entry at Sl No. 80 of Schedule II of Notification No. 01/2017 Integrated Tax (Rate) dated June 28, 2017. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 12% GST applicable on laboratory reagents for rapid testing of food safety parameters.
EVM Motors & Vehicles India Pvt. Ltd	**Whether the services rendered by applicant falls under the chapter 99, Heading 9964 and Service code 996415.Whether the rate provided in Notification No.11/2017Central Tax (Rate) dated 2806 2017 and Notification No.8/2017 Integrated Tax (Rate) dated 28/06/2017 under heading 9964 and description in point(vii) having a GST rate of 18% is applicable for the service rendered by this applicant. Whether the appellant is entitled to claim input tax credited.**	**KER/103/2021 dated 25.05.2021**	**Facts of the Case:** The applicant, EVM Motors & Vehicles India Pvt. Ltd. is a major automobile dealer in the State of Kerala. It handles 15 automobile brands with showrooms and workshops spread all round Kerala. As a part of the diversification plan they have started a new venture "Le Leela" in the Hospitality segment. The new venture is a resort in Muhamma in Alapuzha district. As part of this venture, house boats are being acquired and furnished. These houseboats are to be used for cruises, overnight cruises and for day trips. Meals are provided as part of a package. Alcohol provided, if any, is to be billed separately and KGST will be charged. The boarding point may or may not be the point of disembarkation. The boats procured are to be furnished with state-of-the-art bedrooms, dining rooms, halls and kitchens. The rate proposed to be charged by the applicant is an all-inclusive fare for transportation, accommodation, food services and other incidental services.

			The applicant has sought the advance ruling on the issues whether the service rendered by the applicant falls under the Chapter 99, Heading 9964 and Service Code 996415; Whether the rate provided in Notification No.11/ 2017-Central Tax (Rate) dated 28-06-2017 and Notification No.8/ 2017-Integrated Tax (Rate) dated 28-06-2017 under heading 9964 and description in point (vii) having a GST rate of 18% is applicable for the service rendered by this applicant; and whether the applicant is entitled to claim Input Tax Credit. **Views of Kerala Authority of Advance Ruling:** The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan ruled that The applicant is operating a resort at Alapuzha District. In connection with the same, house boats are being acquired and furnished by the applicant. The house boats are used for overnight cruises and day trips. Meals are provided as part of package. If alcohol is provided, it will be billed separately and Kerala General Sales Tax will be charged. The boarding point may or may not be the point of disembarkation. The boats procured are furnished with state- of- the- art bedrooms, dining rooms, halls and kitchens. The rate proposed to be charged by the applicant is an all-inclusive amount for transportation, accommodation, food and other incidental services.

			The applicant claims that the service is classifiable under SAC 9964 placing reliance on the explanatory notes to Heading 996415 of the Scheme of Classification of Services under GST. The Scheme of Classification of Services is notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017. Chapter 99 — Heading — 9964 pertains to passenger transport services and 996415 pertains to local water transport services of passengers by ferries, cruises and the like. The Explanatory Notes to the Heading 996415 states that the service code includes inland water cruises that include transportation, accommodation, food and other incidental services in an all—inclusive fare. The services rendered by the applicant as detailed above squarely falls under the Heading 996415 in view of the explanatory note and hence the services are appropriately classifiable under SAC 996415. "The services rendered by the applicant are liable to GST at the rate of 18% [9% -CGST + 9% – SGST] as per entry at SI No. 8 (vii) of Notification No.11/ 2017-Central Tax (Rate) dated 28-06-2017 and Notification No.8/ 2017-Integrated Tax (Rate) dated 28-06-2017," the AAR ruled. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that 18% GST on house boats used for Cruises, Day Trips with Meals as part of Packages.
Sutherland Mortgage Services Inc.	**Whether supply of services by India Branch to customers located outside India liable to GST in the light of Inter Company Agreement.** **(Kerala Authority of Advance Ruling)**	**KER/96/2021 dated 07.05.2021**	**Facts of the Case:** The applicant, Sutherland Mortgage Services Inc. is primarily engaged in the business of providing information technology enabled services such as mortgage orientation and related services. The applicant was established as a branch of SMSI, USA as the mortgage laws of the United States of America prevented its Head Office from outsourcing its work to any other third party.

			The applicant is set up as a branch in accordance with Reserve Bank of India general permission under Master Circular dated 01.07.2013 of foreign companies in SEZ to undertake service activities. The applicant has entered into an Inter-Company Agreement with their Head Office SMSI, USA for providing services to the customers located outside India. SMSI, USA requires the following services performed on behalf of its customers who are located outside India; (i) Mortgage Orientation; (ii) Primary Servicing; (iii) Special Servicing; (iv) Cash Management and (v) Analytics and Reporting. The applicant is providing such services covered by the Agreement dated 22.06.2012. The Agreement is entered only for the purpose of transfer pricing regulation as the branch has no separate legal entity. SMSI, USA has also entered into agreement with customers outside India for providing the services from USA and India branch. SMSI, USA is reimbursing the applicant for the costs incurred to perform the services. The valuation is done as mark cost plus 10% up to comply with the Transfer Pricing Regulation. The applies issues commercial to SMSI, USA their Head Office and therefore services would qualify as export of services, which is considered as Zero-rated supply in terms of section i.e IGST Act, 2017. The applicant has sought the advance ruling on the issue whether supply of services by India Branch at M/s. Sutherland Mortgage Services Inc. USA to the customers located outside India shall be liable to GST in the light of the Inter Company Agreement with M/s Sutherland Mortgage Services Inc. USA.

			Views of Kerala Authority of Advance Ruling: The Coram of Joint Commissioner of Central Tax, Shiva Prasad and Additional Commissioner of State Tax, Senil A.K.Rajan concluded that the recipient of servce5 of the applicant is SMSI, USA the Head office of the applicant and hence a distinct person in accordance with Explanation I in Section 8 of the IGST Act, 2017. Hence the condition at sub-clause (v) of clause (6) of Section 2 of the IGST Act, 2017 defining export of service that the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 is not satisfied and accordingly the service provided by the applicant do not constitute export of service as defined in Section 2 (6) of the IGST Act, 2017 and consequently the applicant is liable to pay IGST. The AAR ruled that the supply of services by the applicant as per the Inter-Company Agreement with M/s Sutherland Mortgage Services mc, USA is liable to GST for the period from July 1, 2017 to July 26, 2018 and thereafter is exempted from GST as per entry at Sl No. 1OF of Notification No. 09/2017 – Integrated Tax (Rate) dated June 28, 20 17 as inserted by Notification No. 15/2018 – Integrated Tax (Rate) dated July 26, 2018. **Conclusion:** The Kerala Authority of Advance Ruling (AAR) ruled that the GST applicable on Supply by Indian Branch of Sutherland to customers located outside India till July 2018.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CUSTOMS NOTIFICATIONS AND CIRCULARS

Tariff Notification

Notification No. 52/2021- Customs

Seeks to amend Notification No. 18/2019-Customs reducing Road and Infratructure Cess (RIC) on Petrol and Diesel.

Dated – 3rd November, 2021

Government announces Excise Duty reduction on Petrol and Diesel on the eve of Diwali. Excise duty on Petrol and Diesel to be reduced by Rs. 5 and Rs. 10 respectively. Prices of Petrol and Diesel will come down accordingly. Reduction in excise duty on diesel will be double that of petrol and will come as a boost to the farmers during the upcoming Rabi season. States urged to reduce VAT on Petrol & Diesel to give relief to consumers.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs52-2021.pdf;jsessionid=E5889EB3982D617C7006DC6B309378A0

Non-Tariff Notification

Notification No. 90/2021-Customs (NT)

Exchange rates Notification

Dated – 3rd November, 2021

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa which is specified in Schedule I and Schedule II and has effected from 4th November, 2021.

SCHEDULE-I

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Australian Dollar	56.80	54.40
Bahraini Dinar	204.55	192.00
Canadian Dollar	61.25	59.05
Chinese Yuan	11.85	11.50
EURO	88.10	84.95
US Dollar	75.55	73.85

SCHEDULE-II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	66.85	64.45
Korean Won	6.55	6.15

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt90-2021.pdf;jsessionid=ABB5536D5B3B7EFB3B1A0652D0D9484E

Anti-Dumping Duty

Notification No. 65/2021-Customs (ADD)

Seeks to rescind Notification No. 34/2016 - Customs (ADD) dated 14th July, 2016 to remove levy of ADD on Medium Density Fiberboard

Dated – 11th November, 2021

Central Government has rescinded the notification No. 34/2016- Customs (ADD) which was issued on 14th July, 2016, except as respect things done or omitted to be done before such rescission.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd65-2021.pdf;jsessionid=1003F03BD9B7D3D9148F725A406DBD44

Notification No. 66/2021-Customs (ADD)

Seeks to impose ADD on Imports of Untreated Fumed Silica from China PR

Dated – 11th November, 2021

Central Government has issued a notification on Imports of Untreated Fumed Silica from China PR.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd66-2021.pdf;jsessionid=0C03F66B0B74A0B8AE59FCD92CFAE53B

Notification No. 67/2021-Customs (ADD)

seeks to impose ADD on "measuring tapes" originating in or exported from Singapore and Cambodia

Dated – 11th November, 2021

Central Government has issued a notification on "measuring tapes" originating in or exported from Singapore and Cambodia.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd67-2021.pdf;jsessionid=D6FA09D0ED1370A77D24F2B310CD2F42

DIRECT TAX

Notification No. 128/2021

Approve of 'Pimpri Chinchwad Education Trust'

Dated – 31st October, 2021

CBDT approves 'Pimpri Chinchwad Education Trust', Pune under the category 'University, College or Other Institution' for Scientific Research for section 35(1)(ii) of Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification-128-2021.pdf

Notification No. 129/2021

E-Settlement Scheme, 2021

Dated – 1st November, 2021

CBDT notified 'E Settlement Scheme, 2021' and it will be applicable to pending applications in respect of which the applicant has not exercised the option under sub-section (1) of section 245M of the Act and which has been allotted or transferred by Central Board of Direct Taxes to an Interim Board.

This scheme is aimed at digitizing the overall income tax litigation process in order to bring more transparency and credibility.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification-129-2021.pdf

Notification No. 130/2021

School Employees Retirement System of Ohio

Dated – 2nd November, 2021

CBDT notified pension fund like 'School Employees Retirement System of Ohio' under sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 in respect of eligible investment made by it in India on or after 2nd November, 2021 but on or before the 31st March, 2024.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification-130-2021.pdf

Notification No. 131/2021

Section 10(46) exemption to 'Assam Building and Other Construction Workers Welfare Board'

Dated – 10th November, 2021

CBDT notified Tax Exemption to 'Assam Building and Other Construction Workers Welfare Board' in respect of the following specified income under section 10(46) of Income Tax Act, 1961.

(a) Labour cess received;

(b) Beneficiaries' registration fees;

(c) Member's contribution;

(d) Capital gain on sale/redemption of investments; and

(e) Interest income earned on (a) to (b) above.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification-131-2021.pdf

PRESS RELEASE

DIRECT TAX

Roll out of the new Annual Information Statement (AIS)

1st November, 2021

Income Tax Department has rolled out the new Annual Information Statement (AIS) on the Compliance Portal which provides a comprehensive view of information to a taxpayer with a facility to capture online feedback. The new AIS can be accessed by clicking on the link "Annual Information Statement (AIS)" under the "Services" tab on the new Income tax e-filing portal (https://www.incometax.gov.in) The display of Form 26AS on TRACES portal will also continue in parallel till the new AIS is validated and completely operational.

The new AIS includes additional information relating to interest, dividend, securities transactions, mutual fund transactions, foreign remittance information etc. The reported information has been processed to remove duplicate information. Taxpayer will be able to download AIS information in PDF, JSON, CSV formats.

If the taxpayer feels that the information is incorrect, relates to other person/year, duplicate etc., a facility has been provided to submit online feedback. Feedback can also be furnished by submitting multiple information in bulk. An AIS Utility has also been provided for taxpayers to view AIS and upload feedback in offline manner. The reported value and value after feedback will be shown separately in the AIS. In case the information is modified/denied, the information source may be contacted for confirmation.

A simplified Taxpayer Information Summary (TIS) has also been generated for each taxpayer which shows aggregated value for the taxpayer for ease of filing return. TIS shows the processed value (i.e. the value generated after deduplication of information based on pre-defined rules) and derived value (i.e. the value derived after considering the taxpayer feedback and processed value). If the taxpayer submits feedback on AIS, the derived information in TIS will be automatically updated in real time. The derived information in TIS will be used for pre-filling of Return (pre-filling will be enabled in a phased manner).

Taxpayers should remember that Annual Information Statement (AIS) includes information presently available with the Income Tax Department. There may be other transactions relating to the taxpayer which are not presently displayed in Annual Information Statement (AIS). Tax payers should check all related information and report complete and accurate information in the Income Tax Return.

The taxpayers are requested to view the information shown in Annual Information Statement (AIS) and provide feedback if the information needs modification. The value shown in Taxpayer Information Summary (TIS) may be considered while filing the ITR. In case the ITR has already been filed and some information has not been included in the ITR, the return may be revised to reflect the correct information.

In case there is a variation between the TDS/TCS information or the details of tax paid as displayed in Form26AS on TRACES portal and the TDS/TCS information or the information relating to tax payment as displayed in AIS on Compliance Portal, the taxpayer may rely on the information displayed on TRACES portal for the purpose of filing of ITR and for other tax compliance purposes.

Taxpayers may refer to the AIS documents (AIS Handbook, Presentation, User Guide and FAQs) provided in "Resources" section or connect with the helpdesk for any queries through "Help" section on the AIS Homepage.

Income Tax Department conducts searches in Bihar and Jharkhand

1st November, 2021

The Income Tax Department carried out search and seizure operation on a prominent road construction contractor in Bihar and Jharkhand. The search action was initiated on 27.10.2021 at various premises located in Bihar, Jharkhand, Maharashtra, and West Bengal.

The searches revealed that the group has been suppressing its profits by inflating expenses on purchase of materials. Such excess material is sold in the market in cash but cash so generated remains unaccounted.

It has been also found that the group has indulged in obtaining accommodation entries for inflating other business expenses. Incriminating documents such as handwritten diaries have been seized from the premises of commission agents who have been assisting the assessee group in these dubious practices. These seized documents carry evidences of unaccounted cash generation and movement of material. The search operation has further revealed that the group is also suppressing contractual receipts and service income. It was further seen that the group is not maintaining proper books of accounts, including supporting documents like bills and vouchers.

Various incriminating documents recovered and seized during the search indicate the movement of unaccounted cash between different locations for its investment in immovable properties at various locations and cash expenses of personal nature. It has been detected during the search operation that the commission agents and suppliers of bogus bills have also evaded tax on crores of income as they have indulged in providing accommodation entries to other parties as well.

The search action has resulted in seizure of unaccounted cash of Rs 5.71 crore. Ten bank lockers have been placed under restraint. Investment made in fixed deposits, etc. of about Rs. 60 crore is under verification. The search action has led to the detection of unaccounted income to the tune of about Rs. 100 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Tamil Nadu

2nd November, 2021

The Income Tax Department carried out search and seizure operations in Tamil Nadu in the case of a group engaged in the manufacturing of animal feeds, poultry farming, edible oils and export of egg products. The search action in the group was initiated on 27.10.2021 covering 40 premises located in Tamil Nadu, Karnataka and Kerala.

During the course of the search operation, several incriminating documents and materials in the form of electronic data have been found and seized. These seized documents indicate that the group is involved in suppressing its income by different ways such as inflating expenses including booking bogus purchases, by under invoicing of sales and also by non-reflecting scrap/by-products sales in the regular books of accounts. The analysis of seized documents also shows that unaccounted income so generated has been invested in acquisition and construction of various immovable properties and also incurred in meeting unaccounted expenses.

The search action has resulted in seizure of unaccounted cash of Rs. 3.3 crore and detection of unaccounted income exceeding Rs. 300 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Karnataka

3rd November, 2021

The Income Tax Department carried out search and seizure operations on one of the leading groups of Karnataka, engaged in the civil construction of roads and irrigation projects, on 28.10.2021 at various premises located in North Karnataka.

The search operation has revealed that this group has been suppressing its profits by booking bogus expenses in purchase of materials, labour expenses and payment to subcontractors.

Various incriminating documents including digital evidences indicating non-genuine claim of such expenses have been found and seized. Analysis of the same shows that unaccounted cash has been received by the key group person from such vendors/ suppliers of materials. It was also found that their own relatives/friends/employees were used as conduits in the name of subcontractors who neither executed any work nor did they have the capability/capacity to execute the work. The assessee group has been generating unaccounted cash from these transactions.

The search action has led to detection of unaccounted income of more than Rs. 70 crore which has been admitted as undisclosed income by the assessee group.

Further investigations are in progress.

Income Tax Department conducts searches in Rajasthan

4th November, 2021

The Income Tax Department carried out search and seizure operations in border districts of Rajasthan on 28.10.2021 covering 33 premises at different locations, where the groups are carrying on business of real estate, sand-mining and liquor trade.

During the course of the search, documentary evidences were found and seized indicating receipt of unaccounted cash as well as utilisation of the same towards purchase of land. Further, documentary evidence of cash sales of sand has been found and seized. The analysis of the same reveals that part of these cash sales have not been recorded in the books of accounts.

The search operation has resulted in seizure of unaccounted cash of Rs. 2.31 crore and unexplained jewellery of Rs. 2.48 crore.

The search action has led to the detection of total unaccounted income exceeding Rs.50 crore. Out of the above, the assessees have admitted unaccounted income exceeding Rs. 35 crore and offered to pay due taxes on the same.

Further investigations are in progress.

Income Tax Department conducts searches in Jammu & Kashmir and Punjab

5th November, 2021

The Income Tax Department carried out search and seizure operations on 28.10.2021 in the cases of persons engaged in the business of processing & trading of dry fruits.

During the search operations, many incriminating documents including digital evidence were found and seized indicating that the assessee group has been inflating purchases of dry fruits exorbitantly over the years. Seized evidences also support the fact that unaccounted cash has been received back by the directors of the group against payment made for such purchases. Evidence was also unearthed that one of the assesses was maintaining a parallel set of books of accounts and there was a huge difference between the sales and purchases recorded in both the sets of books of accounts. One of the groups is also indulging in unaccounted purchases and sales of dry fruits. Excess stock to the tune of Rs. 40 crore has been found. The analysis of seized material and evidence collected reveals that one of the groups is also running a benami proprietary concern.

In both the groups, the claim of deduction under section 80IB of the Income-tax Act, 1961 has been

found to be not genuine and is estimated to be around Rs. 30 crore.

The search action has resulted in seizure of unaccounted cash of Rs. 63 lakh and jewellery of Rs. 2 crore. Fourteen bank lockers have been placed under restraint. The search action has led to the detection of unaccounted income exceeding Rs. 200 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Maharashtra

6th November, 2021

The Income Tax Department carried out search and seizure operations on 27.10.2021 at the Headquarter and one of the branches of an Urban Credit Cooperative Bank located in Maharashtra. The residence of the Chairman and one of its directors were also covered.

The analysis of bank data on Core Banking Solutions (CBS) and the statements of key persons recorded during the search action has revealed the glaring irregularities in opening the bank accounts. More than 1200 new bank accounts were opened in the said branch without PAN. The investigations have revealed that these bank accounts were opened without following KYC norms and all account opening forms are filled in by the bank staff and they have put their signature/thumb impressions.

In these accounts, multiple cash deposits each of exact denomination of Rs. 1.9 lakh, were made totalling to Rs. 53.72 crore. Out of these, more than 700 bank accounts have been identified which were opened in series, where cash deposits of more than Rs. 34.10 crore were made immediately within 7 days of opening of bank accounts mainly during the period August, 2020 to May, 2021. These deposits have been structured to avoid mandatory PAN requirement for cash deposits over Rs. 2 lakh. The money has been subsequently converted into fixed deposits in the same branch.

Local enquiries in few cases of such account holders, has demonstrated that these persons are not aware of cash deposits in the bank and categorically denied any knowledge of such bank accounts or even the fixed deposits.

The Chairman, CMD and the manager of the branch, could not explain the source of cash deposits and accepted that these were done at the behest of one of the directors of the bank, who is a prominent local businessman engaged in trading of grains.

On the basis of the evidences gathered and statements recorded, the entire amount of Rs. 53.72 crore has been restrained.

Further investigations are in progress.

JUDGEMENTS

INDIRECT TAX

18% GST Payable on Amounts Received in form of Donation / Grants from various entities including Central and State Govt.: The AAR, Maharashtra

Fact of the Case

The applicant, Jayshankar Gramin VA Adivasi Vikas Sanstha Sangamner is a Charitable trust registered under Maharashtra Public Charitable Trust Act 1950. The Trust is also registered under Societies Act vide registration number Maha/2041/92 w.e.f. 23/12/1992. The applicant is registered under section 12AA of the Income Tax Act 1961.

The destitute home for children is located at Akole bypass road, Sangamner. The trust undertakes supply of services to 50 orphans and homeless children by way of shelter, education, guidance, clothing, food, and health for the Women and Child welfare. The Govt Maharashtra women and child welfare department pay a sum of Rs. 2,000/ per month per child. Other expenses for children are made from donations.

The trust is also registered under Income Tax Act 1961 as a Charitable trust. The trust is also registered under section 80G (5) of the Income Tax Act. The trust also renders services to destitute women who are litigating divorce or homeless or the victim of domestic violence. The Central Government also gives grants through the Women and Child Welfare Ministry for awarding shelter, food, and medical facilities, clothing etc., to the destitute. women who are victims of domestic violence or are divorcees or are homeless and also to rape victims. The trust represents them before legal forums, including lodging FIR at police stations against the culprits, the trust also arranges for counseling through expert counselors to bring them out of the trauma and help them to lead a normal life. These victim women are sent by police stations or anybody who knows that women are victims of violence.

The applicant has sought the advance ruling on the issue of

- whether the applicant is liable to pay GST on the amounts received in the form of Donations/ Grants from various entities including the Central Government and State Government.

Decision of the Case

The Coram ruled that in case of donations, if the gift or donation is made to a charitable organization; the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not an advertisement, then GST is not leviable. In all other cases, GST is leviable. Therefore, GST would be charged at the rate of 18%.

The Maharashtra Authority of Advance Ruling (AAR) ruled that 18% GST payable on amounts received in form of Donations or Grants from various entities including Central and State governments.

18% GST payable on Nominal Charges received from Patients towards an "Unparallel Health Insurance Scheme" for the purpose of Imparting Medical Education: The AAR, Maharashtra

Fact of the Case

The Applicant, Kasturba Health Society (KHS), registered under the Societies Registration Act, 1860 and The Bombay Public Trust Act, 1950, exists solely for imparting Medical Education, till

Post Graduation. The Society has named its Medical College as "Mahatama Gandhi Institute of Medical Sciences" (MGIMS) and Clinical Laboratory as KASTURBA HOSPITAL". The entire activity as a whole is funded by Central Government @50 State Government @25 % and remaining 25% is derived as IRG in form of Fess from Students and Nominal Charges from Patients.

The applicant society since solely engaged in Education and there being no business activity was not obliged to get registered under the erstwhile Bombay Sales Act, 1959, MVAT Act, 2002 as well as Service Tax Act, on account of specific exclusions therein.

The applicant has sought the advance ruling on the issue

- whether the applicant, a Charitable Society having the main object and factually engaged in imparting medical education, satisfying all the criteria of "Educational Institution" is liable for registration under the provisions of section 22 of the Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017 or it can remain outside the purview of registration in view of the provisions of section 23 of the said act as there is no Taxable supply.

Decision of the Case

The Coram ruled that a Charitable Society having the main object and factually engaged in imparting medical education, satisfying all the criteria of "Educational Institution" is liable for registration under the provisions of section 22 of the Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017.

Yet another issue raised was whether the fees and other charges received from students and recoupment charges received from patients (who is an essential clinical material for education laboratory) would constitute as "outward supply" as defined in section 2 (83) of The Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017 and if yes then whether it will fall in classification entry at Sr. No 66 or the portion of nominal amount received from patients (who is an essential clinical material for education laboratory) at Sr. No. 74 in terms of Notification 12/2017 Central Tax-dt. 28/6/2017. The AAR ruled that the said charges collected are exempt from GST.

The Maharashtra Authority of Advance Ruling (AAR) ruled that 18% GST is payable on nominal charges received from patients towards an "Unparallel Health Insurance Scheme".

No Separate GST Registration required at the Place of Importation: The AAR, Karnataka

Fact of the Case

The applicant, Pine Subsidiary Industry has been engaged in import and trading of Gum Rosin (HSN-38061010) 8v Damar Battu (HSN-13019022) etc. The applicant clears the said goods from Chennai Sea Port and wishes to supply the same to various states directly from the Customs Sea Port in Chennai. While filing the bill of Entry, the applicant furnishes the GSTIN of Bangalore location (KA) and custom clears these goods.

The applicant stated that once the goods are cleared, in certain cases, they wish to supply these goods to its customers directly from the Customs Port either in Tamil Nadu or Andhra Pradesh or surrounding states. In some cases, the applicant also wished to directly deliver to customers in Karnataka. The primary reason for transporting the goods directly to customer location (either in Tamil Nadu, Andhra Pradesh, etc.,) is to save on the time and the transportation cost, else the dealer would have to bring the goods to Karnataka and then re-deliver the goods to Andhra and Tamil Nadu.

The applicant has sought the advance ruling on the issue

1. Whether Tax Invoice from Bengaluru office (Registered Place of Business) for imports received at Chennai Sea Port and directly sold to a customer either in Andhra Pradesh, Tamil Nadu, etc., could be raised, or a

separate registration is to be obtained at the place of Importation, i.e. Tamil Nadu for the mentioned transactions.

2. Whether the contents and details of the sample draft invoice are correct in law.

Decision of the Case

The Coram ruled that the applicant can issue tax invoice with IGST to the customer outside Karnataka as per section 20 of the IGST Act 2017 read with section 31 of the CGST Act 2017 for the interstate transaction as provided under section 7(1) of the IGST Act 2017, when the goods are directly dispatched from the port of import with invoicing done from the registered place of business and a separate registration need not be obtained at the place of importation.

"The applicant can do the transaction using Karnataka GSTIN. In case of issuance of e-way bill, the applicant can mention the GSTIN of Karnataka and the place of dispatch as Chennai sea port," the AAR observed.

The Karnataka Authority of Advance Ruling (AAR) ruled that no Separate GST registration was required at the place of importation.

No GST Exemption on Manpower Services provided to Govt. entities: The AAR, Karnataka

Fact of the Case

The Applicant, Vinayaka Enterprises has engaged in the business of providing manpower supply services to various government and non-government organisations. Manpower supply services include supply of workforce of both skilled and unskilled for security, housekeeping, catering etc. Majority of the services are rendered to Central / State Government and public sector undertakings like ISRO, Central University of Karnataka.

The applicant has sought the advance ruling on the issue

1. Whether the applicant is correct in classifying the services provided to the Government entities as exempted services.
2. Whether the applicant is correct in claiming exemption under Sl. No. 3 of Notification 12/2017 dated 28th June 2017 for the said exempted services.

Decision of the Case

The Coram ruled that The applicant is incorrect in classifying the manpower services provided to the organisations/ institutions as exempted services since the same is not provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

The Authority observed that the applicant is providing manpower services like security guards, housekeeping staff and catering staff. But these manpower services are not provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. Hence provision of such manpower services are liable to tax at 18% (9% CGST and 9% SGST).

"The applicant is incorrect in claiming exemption under Sl.No.3 of Notification 12/2017 dated 28th June 2017 for the said services, since the services provided by the applicant are not covered under the said entry and therefore are not exempted," the AAR added.

The Karnataka Authority of Advance Ruling (AAR) ruled that no GST Exemption on Manpower services provided to Government entities.

No GST payable on Services by way of Transportation of 'Eggs' by Rail from One place to Another: The AAR, Karnataka

Fact of the Case

The applicant, SAS Cargo has been engaged in the business of freight services and holds lease

rights of space/containers in Indian railways. They transport consignment all over India using the leased Indian Railway spaces. The applicant states that the goods transported by them are predominantly agricultural products that are exempt from commercial taxes and their service invoice issued for the same is excluding GST considering Notification 12/2017 dated 28th June 2017. Though the Notification specifies the exemption on transportation services by rail on agricultural produces from GST but it does not clearly mention whether an egg is an agricultural produce.

The applicant has sought the advance ruling on the issue of

- whether eggs or hatcheries are classified under the Agricultural Produces/ Products and yet another issue was in respect of applicability of GST on Transportation Services by Rail on Eggs/ hatcheries under GST Act. Eggs, including hatching eggs, are obtained by rearing chicken (Poultry Farming) directly.
- They are either meant for food or as raw material (hatching eggs) for further propagation and as per the definition of Agricultural Produce, "any produce out of rearing of all life forms of animals, for food, fiber, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for the primary market." Thus fresh eggs in shells on which no further processing is done are covered under the definition of "Agricultural Produce."
- There is no condition in the definition that this has to be done by a certain type of person to qualify for the definition.

Decision of the Case

The Coram ruled that eggs on which no further processing is done are covered under the definition of 'Agricultural Produce' as per clause 2(d) of Notification No. 12/2017 Central Tax (Rate), dated 28th June 2017.

"Services by way of transportation of 'Eggs' by rail from one place in India to another place are exempted as per Serial No. 20 of the Notification No. 12/2017 Central Tax (Rate)dated 28th June 2017," the AAR ruled.

The Karnataka Authority of Advance Ruling (AAR) ruled that no GST is payable on Services by way of transportation of 'Eggs' by rail from one place to another.

DIRECT TAX

Relief to Karur Vysya Bank: ITAT allows Income Tax Deduction on Education Cess

Fact of the Case

1. In the present case the appellant is a private sector bank carrying on banking business, filed its return of income for the assessment year 2013-14 declaring total income of Rs.546,50,55,480/- and said return was subsequently revised and declared a total income of Rs.523,99,52,160/- & Rs. 516,82,49,970/- respectively
2. The issue raised was in respect of deductibility of Education Cess and Secondary & Higher Education Cess.
3. The assessee has filed a petition for admission for additional ground and argued that the issue raised in the petition is purely a legal issue, which can be raised at any stage of proceedings including appellate proceedings before the Tribunal. In this regard, placed his reliance on the decision of the Hon'ble Supreme Court in the case of National Thermal Power Company Ltd., vs. CIT.

4. The revenue on the other hand strongly opposed the petition filed by the assessee for admission of additional ground and argued that the assessee has failed to prove the fact, of all relevant materials available before the AO to admit additional ground and hence, additional grounds filed by the assessee may be rejected.

Decision of the Case

1. The coram of judicial member explained the matter in the light of the decision of honourable Bombay High Court in the xase of Sesa Goa Ltd. Vs JCIT.
2. Therefore it was in opinion that Education Cess and Secondary & Higher Education Cess is deductible u/s.37(1) of the Act. But, facts remain that the assessee has taken this issue for the first time by filing additional ground and the fact with regard to said claim was not before the AO at the time of assessment proceedings
3. Hence, the issue was set aside to the file of the AO and directed to reconsider the issue in accordance with law and also by considering the ratio laid down by Hon'ble Bombay High Court.

Rental Income from Sub-Lease shall be treated as Business Income since same was Business of Assessee: ITAT

Fact of the Case

1. In present situation a problem is arrised between the Assessing Officer and ITAT regarding the assessment of rental income from sub-lease
2. Earlier, the Assessing Officer treated the lease rental income earned by the assessee as 'income from House Property' as against 'Business Income' offered by the assessee.
3. The Tribunal bench comprising ITAT Vice-President Mahavir Singh and Accountant Member Manoj Kumar Agarwal found that the property under consideration was obtained by the assessee on a long-term lease basis and it was sub-leased to various tenants.
4. The income thus earned was offered as 'business income'. The main object of sub-leasing was to exploit the property in a business-like manner and earn the rental income therefrom. It is also evident that the assessee and his associated entities had a business interest in real estate development.

Decision of the Case

1. Holding in favor of the assessee, the Tribunal held that "in the present case, the appellant is held to be "deemed owner" of the property in question by virtue of Section 27(iiib) of the Act. On the other hand, under certain circumstances, where the income may have been derived from letting out of the premises, it can still be treated as business income if letting out of the premises itself is the business of the assessee.
2. It is to be seen as to whether the activity in question was in the nature of business by which it could be said that income received by the appellant was to be treated as income from the business."
3. The Chennai bench of the Income Tax Appellate Tribunal (ITAT) has held that the rental income received through sub-leasing of the property shall be treated as the business income of the assessee as the same was the business of the assessee-Company.

Any Investment by Dubai business not Taxable under India-UAE DTAA: Bombay High Court grants Relief to ADIA, quashes AAR Ruling

Fact of the Case

1. The ADIA is a public institution owned by and subject to the supervision of the Emirate of Abu Dhabi

2. Article 4 (2) (d) of the India-United Arab Emirates(UAE) Double Taxation Avoidance Agreement (DTAA) expressly provides that ADIA is a resident of UAE for the purposes of Article 4 thereof and, accordingly, ADIA is entitled to invoke the beneficial provisions of the India-UAE DTAA for the purpose of determining its tax liability in India

3. ADIA files its return of income in India, disclosing therein income that falls within the scope of Section 5 (2) of the Income Tax Act, 1961 but in view of the exemption available in terms of the India-UAE DTAA, reports NIL taxable income in the ROI. ADIA does not have any permanent establishment/ fixed place of business or any other form of presence in India and does not have any business connection/operations in India.

4. The ADIA is challenging the order/ruling dated 18th March 2020 passed by AAR in the case of ADIA as well as Equity Trust (Jersey) Ltd. as the trustee, which is the petitioner in Writ Petition denying ADIA the benefit of India-UAE DTAA read with relevant provisions of the Act in respect of the income accruing on the investments made or proposed to be made by Green Maiden A 2013 Trust, which was established by ADIA and ETL as settlor and trustee, respectively.

Decision of the Case

1. The division bench of Justice KR Shriram and Justice Abhay Ahuja observed that "Even if, the trust is based out of Jersey and the trust is settled in Jersey, ADIA, being the settlor and sole beneficiary of the trust and a resident of the UAE as per the India-UAE DTAA, the income which arises to it by virtue of its investment in Indian Portfolio companies, will be governed by the beneficial provisions of the India-UAE DTAA."

2. In a major relief for Abu Dhabi Investment Authority (ADIA), the Bombay High Court while quashing the Authority of Advance Ruling (AAR)has ruled that any investment made directly or through other trusts by any Dubai or Abu Dhabi business is not taxable under India-UAE Double Tax Avoidance Agreement (DTAA).

Surplus with deficit as per Shareholders' Account should be aggregated with Policyholders' Account for determining Profit or Loss: Karnataka HC grants Relief to PNB Metlife

Fact of the Case

1. In the present case the assessee Company is engaged in the business of life insurance and filed a return of income declaring loss which was computed by aggregating its reporting under shareholders account and policyholders account as prescribed under Insurance Regulatory and Development Authority (IRDA).

2. The Assessing Officer completed the assessment under Section 143(3) of the Act, treating the surplus under shareholders' account as income from business and taxed at normal rates.

3. Being aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). The first appellate authority dismissed the appeal. As such the assessee preferred an appeal before the Tribunal which came to be allowed by following the earlier order in ITA No.756/B/2016 and in so far as the deficit in the policyholder's accounts to be sought for against the surplus as per the shareholders account under Section 70 of the Act as both constitute a similar business.

4. The counsel Sri. E.I.Sanmathi appearing for the appellants-Revenue submitted that the Tribunal grossly erred in deciding that the assessee Company has correctly computed the profits of life insurance business albeit the assessee-company not complied with the provisions of Section 44 read with First

Schedule of the Act and Section 115B of the Act.

5. It was further submitted that the appellate Tribunal failed to appreciate the special provision under Section 44 of the Act in the right perspective while granting unintended benefits to the assessees.

Decision of the Case

1. The division bench of Justice S. Sujatha and Justice Ravi V. Hoswani found no fault with the Tribunal in following this ruling in the case of ICICI Prudential Insurance Company Ltd. identical question having considered, the High Court of Bombay has held that shareholders' amount has to be considered as arising out of Life Insurance Business which is squarely applicable to the case on hand.
2. It is not the case of the revenue that the assessee is carrying on any other business other than the life insurance business. Thus, Section 44 read with Rule 2 to Part-A of First Schedule to the Act is applicable to the facts of the present case, not Rule 5 of Part – B as canvassed by the Revenue.
3. In a major relief to the PNB Metlife, the Karnataka High Court held that Surplus with the deficit as per shareholders' account should be aggregated with policyholders' account for determining profit or loss.

Setback to Lite-on Mobile: ITAT disallows grossed up portion of TDS deducted on Interest paid to AE on External Commercial Borrowings

Fact of the Case

1. The assessee, M/s. Lite-on Mobile India Pvt. Ltd. is wholly owned subsidiary of Perlos Oyj, Finland, is engaged in the business of manufacture and supply of moulded components for the telecommunication industry.
2. The assessee does moulding, painting, punching and assembly for manufacture of plastic covers of mobile phones. The assessee imports raw materials like display window, key pads from its Associated Enterprises. The assessee does not possess technology for manufacture of aforesaid materials in India. The assessee had entered into an agreement with its AE for availing various managerial services for which it has paid management fees. The assessee had also entered into various other international transactions with its AEs
3. The assessee has aggregated all transactions with its AEs and has adopted Transactional Net Margin Method (TNMM) to benchmark all international transactions, except transaction pertaining to payment of interest on ECB (External Commercial Borrowings) which was benchmarked under Comparable Uncontrolled Price method (CUP) and concluded that international transactions with its AEs are at arms' length price.
4. The assessee submitted that the learned DRP has erred in sustaining additions made by the TPO towards disallowance of grossed up portion of TDS of Rs.78,15,435/- without appreciating fact that as per contractual arrangement between parties, the assessee is liable to deposit TDS applicable on said payment and thus, same partakes nature of expenditure which needs to be allowed as deduction.
5. The department on the other hand, strongly supporting order of the learned DRP submitted that what was paid by the assessee is liability of AE, but not payment for services rendered by the AE. Therefore, the learned TPO/DRP has rightly disallowed TDS deducted and remitted on behalf of AE and grossed up in interest provided on ECB loan and thus, their orders should be upheld.

Decision of the Case

1. The coram of Judicial Member, Duvvuru RL Reddy and Accountant Member, G.Manjunatha observed that as per the agreement, any tax liability including income tax, if any, on interest accrued to the lender under the agreement would be borne by the lender. The agreement further states that the borrower will compute the appropriate amount of taxes required to be withheld and deposit the same to credit of Indian Govt. treasury.

2. The borrower will provide the lender with a certificate evidencing deposit of such taxes. Therefore, from the conditions of agreement between parties, it is very clear that tax liability, if any, on interest paid to the lender is the responsibility of the lender. However, the assessee should deduct applicable tax deducted at source as per law, remit the same to Govt. treasury and furnish proof to the lender.

3. In a major setback to Lite-on Mobile, the Chennai Bench of Income Tax Appellate Tribunal (ITAT) disallowed the grossed up portion of TDS deducted on interest paid to AE on External Commercial Borrowings.

TAX COMPLIANCE CALENDER AT A GLANCE

GOODS AND SERVICES TAX CALENDAR

Relaxation to Normal Taxpayers in Filing of Monthly Return in Form GSTR-3B		
Tax Period	**Class of Taxpayer (Based on AATO)**	**Due date of filing**
October, 2021	> Rs. 5 Cr.	20th November, 2021

Relaxation in filing of Form GSTR-3B (Voluntary Monthly Taxpayers less than 5 cr)		
Tax Period		**Due date of filing**
October, 2021	Category A	22nd November, 2021
October, 2021	Category B	24th November, 2021

Others Returns		
From	**Description**	**Due Date**
GSTR- 1	Monthly	
	October, 2021	11th November, 2021
	Quarterly (If opted for QRMP)	
	October to December	13th January, 2021
GSTR- 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively	
	October, 2021	20th November, 2021
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received	
	October, 2021	13th November, 2021
GSTR - 7	Filed by person required to deduct TDS under GST	
	October, 2021	10th November, 2021

GSTR - 8	E-commerce operator who are required to deduct TCS	
	October, 2021	10th November, 2021

INCOME TAX EXTENSION FOR A.Y. 2021-22

Particulars	Original Due Date	Extended Due Date	Further Extended Due Date
Income Tax Return for Regular Assessees	31.07.2021	30.09.2021	31.12.2021
Tax Audit Assessees	31.10.2021	30.11.2021	15.02.2022
Assessees with Transfer Pricing Report	30.11.2021	31.12.2021	28.02.2022
Belated/Revised (ITR)	31.12.2021	31.01.2022	31.03.2022
Furnishing Tax Audit Report	30.09.2021	31.10.2021	15.01.2022
Transfer Pricing (TP) Report	31.10.2021	30.11.2021	31.01.2022

DIRECT TAX CALENDAR – NOVEMBER, 2021

Due Date	Compliances
30 November 2021	➢ Due date for furnishing of challan-cum-statement in respect of tax deducted under **section 194-IA, 194-IB & 194-IM** in the month of October, 2021. ➢ Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2020-21. ➢ Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during previous Year 2020-21 (Form No. 64). ➢ Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2020-21) to units holders.

	➢ Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA. ➢ Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB. ➢ Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2020-21. This statement is required to be filed electronically to **Principal CIT or CIT in form No. 64A**. ➢ Application in **Form 9A** for exercising the option available under **Explanation to section 11(1)** to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2021). ➢ Statement in **Form no. 10** to be furnished to accumulate income for future application **under section 10(21) or section 11(1)** (if the assessee is required to submit return of income on November 30, 2021). ➢ Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction **under section 35(2AB)** [if company has any international/ specified domestic transaction]. ➢ Statement by scientific research association, university, college or other association or Indian scientific research company as required by **rules 5D, 5E and 5F** (if due date of submission of return of income is November 30, 2021). ➢ Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2020-21 and of foreign tax deducted or paid on such income in **Form no. 67**. (if due date of submission of return of income is November 30, 2021). ➢ Due date for **e-filing of report (in Form No. 3CEJ)** by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager. (if the assessee is required to submit return of income on November 30, 2021). ➢ Due date for filing of return of income for the assessment year 2021-22 has been **extended from October 31, 2021 to November 30, 2021**, if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c)partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies.

	➢ Audit report under section 44AB for the assessment year 2021-22 has been **extended from October 31, 2021 to November 30, 2021**. in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E. ➢ Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction has been **extended from October 31, 2021 to November 30, 2021.** ➢ The Due date of Intimation in **Form 10BBB** by a pension fund in respect of each investment made in India for quarter ending June, 2021 has been further extended from September 30, 2021 to November 30, 2021. ➢ The Due date of Intimation in **Form II** by Sovereign Wealth Fund in respect of investment made in India for quarter ending June, 2021 has been further **extended from September 30, 2021 to November 30, 2021**. ➢ The due date of quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in **Form No. 15CC** for quarter ending June, 2021 has been further **extended from August 31, 2021 to November 30, 2021.** ➢ Upload the declarations received from recipients in **Form No. 15G/15**H during the quarter ending June, 2021 has been further extended from August 31, 2021 to November 30, 2021.

Messages from Colleges and Students of GST Course

CMA Rakesh Shankar Ravisankar
Assistant Professor – Commerce
Dwaraka Doss Goverdhan Doss Vaishnav College [Autonomous]

"PG & Research Department of Commerce, Dwaraka Doss Goverdhan Doss Vaishnav College has successfully completed 3 Batches of GST Course for college students during the year 2019 & 2020 training 350 students. Our students being entrepreneurs and undertaking their family business were able to contribute to the compliance for their business. The course has been well received by the students and the faculty members deputed by the Institute dealt the subject with practical experience and case laws. I strongly feel that every higher education Institution shall conduct this course for increasing employability and skill among students. This course is also in recognition with the 30 hours of valued added course of the NAAC requirements. Thank You Tax Research Department of The Institute of Cost Accountants of India."

"I congratulate the Chairman and Members of Indirect and Direct Committees and Tax Research Contributors on the eve of release of the 100th Volume.."

Shri. Gomathi Sankar Suriyanarayanan
Certified GST Trainer & Expert

"I am delighted to be a part of the faculty team of crash course organized by the Tax Research Department, The Institute of Cost Accountants of India training the students in the city colleges in Chennai. The interaction with the students during the batch organized in the pandemic, I felt that the students have capitalized the opportunity granted to them by the college and the Institute. The crash course was very useful for undergraduate students to equip themselves with skill requirements and capacity building. It was very useful for enhancing employable capacity among students. Students found the course with practical knowledge and live training on registration, e-filling of returns was much appreciated by the students. Wonderful experience and highly recommended to all the undergraduate students."

Dr. Md. Tofazzal Haque
Principal, Umeschandra College, Kolkata

"Congratulations on publishing 100th Edition of the Tax Bulletin and it's our honour and pleasure to work with you. We are also expecting to organize such kind of skill development programs in collaboration with your esteemed institution in the near future. Our honourable Principal **Dr. Md. Tofazzal Haque** conveys his words of appreciation for your upcoming edition of Tax Bulletin as below:

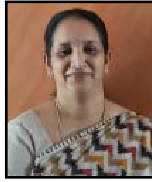
"We organised a GST Course for our college students in the year 2019. The program was very useful for undergraduate commerce students. It was very useful for enhancing employable capacity among students. The way of teaching was really good; trainers explained each and every point clearly and solved each and every doubt. Wonderful experience and highly recommended. Thank You Tax Research Department of The Institute of Cost Accountants of India."

We are quite aware of the fact that you will grow and succeed in near future. We will be seeing you as a leader."

B. Keerthika
Student of GST Course for College and University - Dwaraka Doss Goverdhan Doss Vaishnav college

"I have completed the course on GST recently. I had a best experience in gaining more knowledge about this. Simply, it is a short course with a immense knowledge. I really thank all the eminent faculties who gave all the possible information regarding gst.

I extremely thank our college for providing us this wonderful opportunity of knowing the course of GST. Even now I can recollect all the things the faculties have taught because of their hard effects. Thanks for all effects taken by them."



Dr. Bhavani M

Associate Professor and Head of the Department of Commerce
Pooja Bhagavat Memorial Mahajana Education Centre
PG Wing of SBRR Mahajana First Grade College (Autonomous)

"We organised a GST course for Pooja Bhagavat Memorial Mahajana Post Graduate CenterCollege students –Mysore,Karnataka in the year 2019. The program was very useful for both undergraduate commerce and management students. Course was very useful for enhancing employable skill and capacity among students. I recommend every college to conduct this course for increasing employable skill and capacity among students. Wonderful experience and highly recommended. We also expect other skill development course in the area of finance and accounting specially for college students.

We would like thank to Past Chairman of Indirect Taxation Committee CMA Niranjan Mishra and Present Chairman of Indirect Taxation Committee CMA Chittaranjan Chattopadhyay and Team Members of Tax Research Department ,Dr. C K Renukarya, Director, Pooja Bhagavat Memorial Mahajana Education Centre, Mysore for their unconditional support. We also express our sincere thanks to Chairman and Members Mysore chapter of The Institute of Cost Accountants of India for their continuous support and contribution for completion of course successfully for various colleges in Mysore, Karnataka.

Hardik Mehta. S

Student of GST Course for College and University - Dwaraka Doss

Goverdhan Doss Vaishnav College

"The GST Course held by Our College is Valuable Course with Affordable Cost. I Gained so much practical and Theoretical Knowledge about Good & Service Tax which i am using in my Professional course thereafter.. Every Concept not only taught by Single Faculty but various Professionals with a Power Point Presentation. So it is a Wonderful Experience to be a Part of GST Course held in our College."

Mr. Jagadish Halder
Chief Manager(F&A)
Oil and Natural Gas Corporation Ltd

I am regular reader of Tax Bulletin of The Institute of Cost Accountants of India which gives us the knowledge of current Tax information. I thanks the Institute of Cost Accountant of India which publishes this bulletin for the member of the Institute. Moreover, this Institute has arranged various courses on taxation with practical approach. I appreciate this course as I have already undertaken the GST course which has given me thorough knowledge on GST. I recommend that any member and non-member can take this course for practical training. I hope this Institute will continue this courses for the Member and non-Member.

Adv. Apeksha Kalra
Rajasthan High Court, Bench at Jaipur

I, Advocate Apeksha Kalra, want to express my sincere gratitude for the -GST Basic Course (Batch-9) organised by The Tax Research Department of The Institute of Cost Accountants of India. The Classes were very useful for the students. It was very useful for both clarifying the basics as well as enhancing employable capacity among students. The way of teaching was really good, trainers explained each and every point clearly and solved each and every doubt. I feel including query classes after every topic would further enhance the quality of the course. It was a wonderful experience and I highly recommended the course. Thank You Tax Research Department of The Institute of Cost Accountants of India.

CMA Manoj Kumar Jain
Assistant General Manager
Bank of Baroda

I want to express my Sincere gratitude for the Certificate course on GST (advance) organised by The Tax Research Department of The Institute of Cost Accountants of India. The Classes were very useful for the students. It was very useful for enhancing employable capacity among students. The way of teaching was really good, trainers explained each and every point clearly and solved each and every doubt. Wonderful experience and highly recommended. Thank You Tax Research Department of The Institute of Cost Accountants of India.

Dr. Manzoor Ahmad Lone
Principal
Abdul Ahad Azad Memorial Degree College Bemina Cluster University, Srinagar

"We are organizing a GST Course for BEMINA College with 47 students and class has been started from 25th October 2021 onwards. This 32 hours GST Course is providing practical insights along with theoretical knowledge for increasing employable capacity among undergraduate students. This course has been highly appreciated by the Govt. Dignitaries and they have recommended to conduct this kind of skill development course in other colleges also. I hope in the near future there will be more batches of this GST in several colleges. Thank You Tax Research Department of the Institute of Cost Accountants of India."

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M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,500 + 18% GST
Exam Fees - Rs. 500 + 18% GST
Course Duration - 32 Hours

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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

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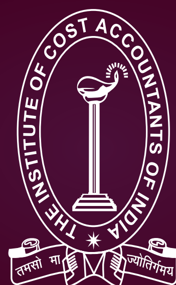

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